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**INTERNATIONAL COURT OF JUSTICE**

**CASE CONCERNING ARMED ACTIVITIES ON THE TERRITORY OF THE CONGO  
(DEMOCRATIC REPUBLIC OF THE CONGO v. UGANDA)**

**SECOND PHASE  
QUESTION OF REPARATION**

**MEMORIAL  
OF THE  
DEMOCRATIC REPUBLIC OF THE CONGO**

**VOLUME 3  
(Annexes 3.1 to 3.8)**

**September 2016**

*[Translation by the Registry]*

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**ANNEX 3.1**

**United Nations General Assembly, Fifty-fifth Session, *Report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo*, document A/55/403, 20 September 2000**



## General Assembly

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**Human rights questions: human rights situations and reports of special rapporteurs and representatives**

### **Situation of human rights in the Democratic Republic of the Congo**

#### **Note by the Secretary-General\***

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Mr. Roberto Garretón (Chile), pursuant to General Assembly resolution 54/179 and Commission on Human Rights decision 2000/15, endorsed by the Economic and Social Council in its decision 2000/248.

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\* In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 20 September 2000 so as to include as much updated information as possible.

## Report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo

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## I. Introduction

### A. Mandate

1. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, submits his fourth preliminary report on the situation of human rights in the Democratic Republic of the Congo (formerly Zaire) to the General Assembly, pursuant to Assembly resolution 54/179 and Commission on Human Rights resolution 2000/15. The report covers incidents that occurred up to 25 August.

### B. Activities and administrative obstacles

2. The Special Rapporteur participated in the special session of the Security Council, held in January 2000 to consider the situation in the Democratic Republic of the Congo, convinced that human rights matters cannot be separated from the settlement of conflicts, whose root cause is the violation of human rights. The Carlsson report on United Nations responsibility in the Rwanda genocide, which concluded that the failure to heed the report of a Commission on Human Rights rapporteur had been one of the main reasons for the genocide, had already been published.

3. In order to attend the special session of the Security Council, the Special Rapporteur had to reduce the length of his only visit to the Democratic Republic of the Congo to only 10 days and limit his consultations to just one in Geneva, where there are few Congolese refugees.

4. The only assistance which the Special Rapporteur received was from an extremely efficient assistant in the Office of the United Nations High Commissioner for Human Rights, who, however, also has responsibility for four other States.

5. The Ambassador of the United States of America to the United Nations, the Special Representative of the Secretary-General, the Government of the Democratic Republic of the Congo, the leaders of the Rassemblement congolais pour la démocratie (RCD) and of the Mouvement de libération du Congo (MLC), ambassadors in Kinshasa and the heads of United Nations agencies expressed concern at the fact that the Special Rapporteur had paid only one brief visit to the country, which they felt would affect his credibility.

6. During his mission to the Democratic Republic of the Congo (13-26 August 2000), the Special Rapporteur visited Kinshasa. He also visited Goma, Bukavu and Kisangani, which are under the control of RCD/Goma faction and Gbadolité, which was captured by MLC. Both the Government and rebel authorities permitted him to work and conduct his interviews freely. Obstacles were encountered, however, when he attempted to visit the military and police detention centres in Kinshasa and Bukavu. He also had meetings with or reviewed the reports of political parties and of intergovernmental and non-governmental institutions and organizations (see E/CN.4/2000/42, annexes II-V).

7. The Special Rapporteur transmitted 22 communications and urgent actions to the Government, including 86 allegations of violations of human rights. Three of these were acknowledged and one reply received.

8. RCD authorities submitted two extensive reports to the Special Rapporteur, which the latter welcomes.

### C. Pending activities and investigations

#### Joint mission to investigate allegations of massacres committed in 1996

9. In paragraph 5 (b) of its resolution 2000/15, the Commission on Human Rights renewed the mandate of the joint mission established by its resolution 1997/58 to investigate violations of human rights and international humanitarian law committed in the east of the former Zaire between 1996 and 1997.

10. The Government also requested the Secretary-General to carry out an investigation into the events that occurred in the locality of Ituri (letter of 8 February 2000) as well as an investigation into allegations of the deaths of 15 women who were buried alive or burnt in Mwenga, situated in RCD-controlled territory. Both the Government and RCD requested special investigations into the Katogota massacre. Because of the prevailing insecurity and lack of financial resources, these investigations are still pending.

## D. International obligations of the Democratic Republic of the Congo

11. Contrary to the public announcement, the Democratic Republic of the Congo did not accede to the Protocols Additional to the Geneva Conventions. The Government is late in submitting 10 reports to treaty bodies. It has not completed a single report nor replied to the communications addressed to it by the respective treaty bodies.

## E. Reprisals against individuals who cooperated with the United Nations

12. The Special Rapporteur denounces the reprisals taken against the following persons who cooperated with him during his visits or who submitted reports to him, pursuant to Commission on Human Rights resolution 2000/20.

13. In RCD-controlled territory: Monsignor Emmanuel Kataliko, Archbishop of Bukavu, who had been interviewed by the Special Rapporteur, was detained and subsequently exiled to Butembo, on 12 February 2000. Collete Kitoga was arrested in Goma upon her return from the fifty-sixth session of the Commission on Human Rights.

14. In territory controlled by the Rassemblement congolais pour la démocratie/Mouvement de libération (RCD/ML), Sylvain Mudimbi Masudi was detained in Benin for attending the session of the Commission on Human Rights and was transferred to Uganda.

## II. The various armed conflicts

15. The Democratic Republic of the Congo is bedevilled by various armed conflicts, some international, others internal and yet other internal conflicts that have been internationalized (see E/CN.4/2000/42, para. 20). Participants in these conflicts include at least eight national armies<sup>1</sup> and 21 irregular armed groups. All of these forces are operating entirely in the territory of the Democratic Republic of the Congo, which has seen its population decimated and its wealth extracted by occupying and rebel forces.<sup>2</sup>

## A. The conflict between the Government and RCD

16. The conflict between the Government and RCD began on 2 August 2000, following Rwanda's invasion of the Democratic Republic of the Congo. It is the most serious of the conflicts, not only because of its political and economic repercussions but also because it restricts the enjoyment of the civil, cultural, economic, political and social rights of the population of the entire region.

17. On one side are the armies of Rwanda, Burundi, Uganda and RCD/Goma faction, together with its paramilitary group Local Defence Unity. Allegations have been made of the involvement of Interahamwe deserters and Rwandan Hutu prisoners, who were released and sent to the front. The mineral riches of the Democratic Republic of the Congo in Katanga, Orientale province and Kasai Oriental have been depleted by foreign troops and RCD.

18. For its part, the Government has relied for its defence on counter-rebel militias: it has open and confirmed ties to the Mai-Mai,<sup>3</sup> a group that is gaining in popularity with a local population tired of being subjected to the control of forces they consider foreign. It also has informal ties to other "counter rebels": RCD deserters, Rwandan Bahutu Interahamwe, members of the former Rwandan Armed Forces (FAR), and Burundian Bahutu, among others.

19. The violence is unleashed by the attacks of the counter-rebels against military forces which they consider to be aggressors. The response of the Rwandan army, RCD and the Burundian army is to attack the defenceless civilian population, committing indescribable massacres, such as those that took place at Katogota, on 15 May 2000, Kamanyola, Lurbarika and Luberizi, or the massacre in July 2000 on the Lusenda-Lubuma highway (see E/CN.4/2000/42), as well as the events — denied, as others have been, by RCD/Goma faction — that took place in Mwenga in November 1999, in which 15 women were tortured and buried alive (see S/2000/330, para. 61).

20. Another factor contributing to the violence is the antagonism between RCD and Banyamulenge, who are fed up at being the target of the resentment of Congolese over the abuses committed by the Armée patriotique rwandaise (APR).



21. By its resolution 1304 (2000), the Security Council demanded that Uganda and Rwanda, which have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo, withdraw all their forces from the territory of the Democratic Republic of the Congo. The withdrawal should be followed by reciprocal actions by the other parties, which have not taken any such action.

### **B. The conflict between the Government and MLC**

22. In Équateur province, the Congolese Armed Forces (FAC), supported by Zimbabwe and Namibia, are fighting MLC, which is supported by Uganda. It is in this province that the parties have shown the least respect for the ceasefire, and indeed the rebel leader has long maintained that he felt under no obligation to observe it. President Kabila contends that MLC has rendered the ceasefire agreement null and void.

### **C. Clashes between Uganda and Rwanda in Kisangani**

23. Once again there were clashes in Kisangani, the third largest town in the country, previously controlled by the two RCD factions and currently controlled by RCD/Goma, between the "uninvited armies" of Rwanda and Uganda (supported by RCD/MLI). The worst clashes occurred on 5 and 9 May and on 8 June 2000. The causes are economic (both armies want the huge wealth of Orientale province) as well as political (control of the territory).

24. During the confrontations, particularly the most recent one, not only combatants but also close to 1,000 Congolese civilians were killed, thousands were wounded and much of the town was destroyed, as the Special Rapporteur in the field has confirmed.

25. Calls for a ceasefire, including from the Security Council, went unheeded and moves towards demilitarization were disregarded the very next day. Only the latest one seems to be holding.

### **D. Tribal conflict between Balendu and Bahema**

26. The Ugandan occupation of the Ituri region has led to conflict between the Bahema (of Ugandan origin) and the Balendu, who have been in the region longer. With support from the Ugandan soldiers, the authorities appointed by them and RCD/ML, the Bahema have seized land from the Balendu who have no support. Except for some incidents in 1911, 1923 and 1955, these two ethnic groups had lived without major difficulties for nearly three centuries. The current confrontations, which flared up again in August 2000, have resulted in some 8,000 deaths and the displacement of some 50,000 people.

### **E. Ceasefire agreements and observance thereof**

27. Following tremendous pressure from the international community (see E/CN.4/2000/42, para. 18 and annex X), the parties concluded a ceasefire agreement in Lusaka, in 1999. They did not abide by the agreement and, as a result, the timetable had to be adjusted (Lusaka, 12 February 2000, Kampala, 1 March and 8 April, at which time it was agreed that hostilities would cease from 14 April 2000). Only the last one was observed, except in the fighting between MLC and RCD. In spite of everything, the belligerents have, on the whole, kept to the positions they held in August 1999.

28. The Lusaka agreement provided for the deployment of a United Nations force — the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) — of some 5,537 observers and security personnel in the territory in conflict and for the demobilization and disarming of the armed groups. MONUC quite rightly maintains that disarming the groups, if they do not disarm themselves, is not part of its mandate but a matter for the signatories.

29. Inexplicably, the Government received MONUC aggressively and blamed the United Nations for the death of Lumumba back in 1961.<sup>4</sup> MONUC continued to be attacked verbally and in fact (pro-Government demonstrations in June 2000) for its lack of objectivity, based on the fact that its reports are said to give more importance to the Mai-Mai and Interahamwe attacks on

the RCD forces and their allies than to the latter's counterattacks on civilians.

30. Despite all the statements to the contrary and despite the conversations between Presidents Kabila and Kagame (Eldoret, Kenya) and the influence of Kenya, Zambia, South Africa, Algeria, Nigeria, Botswana, Mozambique, Mali, the Organization of African Unity, the United Nations and others, the parties all seem bent on winning the war by military means.

31. A meeting of the Southern African Development Community (SADC) on 14 August 2000 failed because Kinshasa opposed any solution, feeling that since the circumstances of the conflict had changed the Lusaka agreement should be adjusted. A proposed change was submitted to the other parties on 23 August 2000.

#### **F. Impact of the war**

32. The war has destroyed the country. More than half the population has been affected. All public moneys are being diverted to the war effort. There have been terrible epidemics. Only 9 per cent of all health districts have refrigerators for keeping medicines. Since it is impossible to cultivate the land due to the war, 17 per cent of the population (14 million people) are now affected by food insecurity, according to the Food and Agriculture Organization of the United Nations (FAO). The number of sheques (street children) has risen alarmingly.

33. The Congolese people have looked on helplessly while those whom it calls aggressors have taken away all its wealth and caused enormous ecological damage.

34. There are more than 1,300,000 internally displaced persons, many of whom are without any assistance. The vast majority come from the occupied territories in the east. Their situation was made worse by the attacks carried out in July 2000 on the displaced persons camps in Sake and Uvira, both by the Mai-Mai and by Rwandan soldiers; these attacks forced many non-governmental organizations to suspend their relief activities.

35. If one includes those who sought asylum when Mobutu was in power, there are Congolese refugees all over the world. Most recently, due to the fighting between RCD and MLC, there are reported to be some 72,000 refugees in Congo Brazzaville.

36. Congolese Tutsi who had sought refuge in Rwanda are returning to Goma with support from RCD through one non-governmental organization, but against the wishes of the Office of the United Nations High Commissioner for Refugees (UNHCR) which fears that this may lead to increased violence.

#### **G. Situation of persons at risk**

37. These are the Batutsi or people who look like Tutsi living in the territory under government control, who fear reprisals from the population for the "Rwandan aggression". At the start of the war, the Government called for their elimination (see E/CN.4/1999/31, para. 45), but later it opted for a position of protection and even established protection centres (not detention centres as alleged by the Rwandan Government and RCD) with the help of the International Committee of the Red Cross (ICRC) and foreign Governments. This policy has made it possible for many people to be repatriated or to take refuge in Rwanda, Uganda and Burundi and others have found refuge in Cameroon, Benin, the United States or Canada. In 2000, there were 2,796 people living in the protection camps; when the Special Rapporteur visited the camps in Kinshasa, the number had fallen to 299.

### **III. Political development and democratization in Government-controlled territory**

38. The power structure described in all reports since 1997 remains intact; tremendous power (executive, legislative and much of the judicial power) remains concentrated in the hands of President Kabila (see E/CN.4/1998/65, para. 32 to 37; E/CN.4/1999/31, para. 17 and E/CN.4/2000/42, paras. 32, 33 and 127).

39. The Government has made us move towards democracy; according to all the indications, it does not wish to do so. The only thing that has changed is that the "national debate", which the President instituted in 1999 but which was never accepted by civil society,<sup>5</sup> has ended. Although the main moral, religious,<sup>5</sup> political and civil institutions are clamouring for democracy — in the sense of Commission on Human Rights resolution 2000/47 — and demanding the dialogue provided for at Lusaka as a means thereto, President Kabila has shown no interest in the matter.

40. Indeed, the President has always rejected the national dialogue. The facilitator designated by OAU, the distinguished former president of Botswana, Ketumile Masire, was accepted and later rejected by the Government; the latter has consistently prevented him from fulfilling his delicate mission; (it has levelled vague charges of "duplicity of roles" against him; prevented him from travelling to towns under rebel control; rejected his work plan; failed to attend, and prohibited political parties and civil society from attending, the preparatory meeting in Benin; withheld tickets and passports; refused to receive him, closed his office and so forth).

41. In addition, the ban on political parties and civil organizations that do not meet the draconian conditions set by Decree Law 194 and Decree Law 195 (see E/CN.4/2000/42, para. 33 and 70) remains; persons who are not members of a party constituted in accordance with the new law are not permitted to make political speeches; pro-Government parties (the only ones recognized) have been established; and all political activity has been suppressed, resulting in hundreds of arrests and personal attacks (Union pour la démocratie et la progrès social (UDPS), 26 July 2000); persecution by the People's Power Committees (CPP) (Parti Lumumbiste unifié (PALU), 17 January 2000); unlawful searches (MNC/L, 22 April 2000); the discredited CPP remain (the election of members failed due to lack of interest on the part of the population), as does the Force d'auto-défense populaire (FAP) militia; the agreements regarding the democratization of the "national consultation" which had been called for by the religious leaders and which demanded that the Lusaka agreements and the inter-Congolese dialogue be respected have been rejected; limited dialogues have been convened (January, February and May 2000) but are limited to supporters, etc.

42. On 21 August 2000, notwithstanding the Lusaka accords, a Constituent and Legislative Assembly was established; under the sole direction of the President and without any consultation and without consensus, it was decided that the Assembly's headquarters would be in Lubumbashi. Although a few opponents were called, in their personal capacity, the Assembly was not accepted by the country's best known leaders. In any event, its mandate is purely consultative and it in no way diminishes the absolute powers of the President.

#### **IV. Political development and democratization in territory controlled by rebel movements**

##### **Territory controlled by RCD**

43. In the territory controlled by RCD, the Congolese people's feelings of terror and humiliation not only persist but are growing stronger (see document E/CN.4/2000/42, paras. 43-47, 125 and 133). This explains the increasing popularity of the Mai-Mai.

44. RCD is the only party, and it holds absolute power to such an extent that the provincial governors and heads of public services preside over their own RCD cells. Party officials deny that theirs is a "State party", saying that it is not a party but a movement of trade unions, and that pluralism will come about eventually. In the Special Rapporteur's view, this explanation only confirms that the party is, in reality, State-run. No efforts towards greater pluralism are in evidence. The paramilitary "local defence units" are a contributing factor in the considerable feeling of insecurity.

45. All forms of dissidence are suppressed; any criticism is considered an incitement to national hatred or genocide and the whole population is suspected of collaborating with the Mai-Mai. A typical example is the absurd expulsion of Archbishop Emmanuel Kataliko from Bukavu for his Christmas message, which was considered to be an incitement to genocide. The Special Rapporteur has read and studied the text closely, and he can safely say that there is not a single sentence, word or idea, taken in isolation or in context, that could be interpreted, even with the worst of intentions, in this way.

46. Attempts to humiliate the population continue (see document E/CN.4/2000/42, para. 46). As a new way of castigating the Nyndu tribe, already punished by the horrible Kasika massacre in 1998 (see document E/CN.4/1999/31, para. 56), RCD/Goma has taken land from them in order to create a Minembwe territory. RCD has provided the facilitator, Ketumile Masire, with a list of "opposition parties", such as the Front uni de l'opposition non armée (FRONUAR), and others that exist in Kinshasa without representatives in the region.

47. The population recognizes and defends the guerrilla activities of the Mai-Mai, blaming "Rwandan soldiers" instead for the violence.

48. The population's opposition is illustrated by various acts of protest, such as the general strikes in Bukavu by students on 24 January 2000 and from 31 January to 6 February 2000; a demonstration in Kisangani by women on 31 January 2000, in Goma, on 14 February 2000; in Uvira, Kindu and Bukavu (a week-long beer strike successfully carried out in April 2000), among others.

49. RCD has frequently split into factions (see document E/CN.4/2000/42, para. 43), and efforts at reunification are being made not among Congolese leaders, who appear to be leading the factions, but between the Presidents of Uganda and Rwanda (November 1999; January 2000). In March 2000, three RCD/Goma leaders defected and were later accused of spying by Kabila; subsequently, other internal dissidents broke away and formed RCD/National. The Banyamulenge expressed their concern about massacres of the local population in July 2000, which made their own situation worse, and they organized marches in Bukavu and Uvira.

50. In April and August 2000, attempts to depose the President of RCD/Bunia were defeated through the influence, once again, of the President of Uganda and his army.

51. The small RCD/Bunia faction has also taken steps that have stirred up the population, such as supporting the Hema against the Lendu, or the creation of the Kibali-Ituri province to favour the former.

#### **Territory controlled by MLC**

52. In the territory controlled by MLC, the people do not live in terror, but there is one-party rule. The representative of civil society to Benin was appointed by MLC.

## **V. Human rights violations committed by the Government<sup>6</sup>**

### **Right to life**

#### *Death penalty*

53. The Government, which says it is against the death penalty, made a number of announcements (on 10 December 1999 and 27 January 2000) to the Special Rapporteur on the suspension of this penalty (see document E/CN.4/2000/42, paras. 49 and 50), but continued to apply it, at least until February 2000, when 19 persons were executed. The President of the Military Court reported that it continues to be enforced "on the front". The Special Rapporteur visited 41 persons who are awaiting a pardon, which the President has promised to grant.

#### *Enforced disappearances*

54. The number of reported disappearances has declined. None of the cases recorded in previous years, however, have been cleared up. Nicolas Bantu, Aimé Ngobe and Serge Itala have been missing since their arrest in December 1999.

#### *Death by torture*

55. Given the systematic and habitual practice of torture, deaths have been reported, such as that of Kalombo Ilunga in July 2000; he had been detained by the police in Lubumbashi, and his corpse was found in the morgue.

#### *Political assassinations*

56. None have been reported.

### **Right to physical and psychological integrity**

57. Torture is brutally and systematically practised, especially by GSSP but also by the National Information Agency (ANR). Tolerance of the existence of secret detention centres, lacking any control whatsoever, contributes to this scourge. One particularly well-known centre is that of the Litho Moboti Group (GLM); its commander was detained on 9 March 2000 but unfortunately was freed days later, with no charges having been filed. Torture is facilitated by the fact that the Detection of Unpatriotic Activities Police (DEMIAP) has no public register of detainees,

and in the provincial police inspectorate (formerly Circo) all detainees are not placed in a single centre, as the Special Rapporteur observed. Representatives of the Human Rights Office of the Democratic Republic of the Congo are not authorized to enter any centre that is not a prison.

#### **Right to personal liberty**

58. This is the right most often threatened. Journalists, lawyers, religious leaders, human rights workers, politicians, trade union leaders and others are detained, generally on the grounds of violating the ban on political activities or of colluding with the rebels. The times vary from a few days to years. Often, no charges are filed against the prisoner, although sometimes detainees are transferred to the Court of State Security and the Military Court. No one escapes the risk of jail, not even retired judges (for example, the former President of the Supreme Court) or active judges (a military magistrate), ambassadors (the representative to Kenya), ministers (six were detained on 2 June 2000) or other officials at this level, and even a member of the Constitutional and Legislative Assembly.

59. A positive step has been the admittedly partial, discretionary and conditional amnesty declared on 19 February 2000, by which some 300 prisoners were belatedly released. In July 2000, 800 soldiers were also released, to be sent to the front.

#### **Right to enter and leave the country**

60. It is difficult for opponents to leave the country, since their passports and airline tickets are often confiscated. Similar problems affect journalists, priests and human rights activists. Representatives of civil society were prevented from travelling to Benin to the preparatory meeting for the national dialogue provided for in the Lusaka Agreement.

#### **Right to due process**

61. The criticisms of the Military Court concerning procedural irregularities (summary judgements, sole jurisdiction and others) are still absolutely valid. (See documents E/CN.4/1999/31, paras. 90, 91 and 137, and E/CN.4/2000/42, paras. 63, 122 and 137.) Detainees are held for a long time awaiting trial.

62. One indication of the lack of independence of the judiciary, which is referred to in Commission on

Human Rights resolution 200/42, is that the Procurator-General of the Court of State Security was held in prison for 30 days for refusing to approve a raid on the Belgian Embassy. The attorney-general was also detained.

63. Owing to the lack of guaranties, the 15 defenders of an independence fighter refused, with his agreement, to defend him, and he was sentenced to four years of hard labour.

#### **Freedom of expression and opinion**

64. The Special Rapporteur has transmitted communications to the Government from more than 30 detained journalists, who were tried and/or convicted by the Military Court or frightened away from practising their profession. Mobutu's draconian laws are still in full force. The Vice-Minister of Information justifies this by saying "we cannot tolerate traitors", and the President has said that "the law must be obeyed". The main private television station was confiscated in March 2000. Independent media have no access to the authorities.

65. Despite the existence of some newspapers, the judgement is categorical: there is no freedom of expression in the Democratic Republic of the Congo.

#### **Freedom of association**

66. Political parties are still banned, unless they submit to new registration requirements and risk being rejected. Political activity, even making speeches, is prohibited. Dozens of leaders and activists have been detained or prevented from leaving the country or the city where they live, and their headquarters have been attacked and ransacked.

67. Human rights organizations suffer similar treatment. The ban on them has not been lifted.

#### **Economic, social and cultural rights**

68. Public employees, except for some in Kinshasa, have still not been paid, and trade union leaders who protest against this are accused of endangering State security. More than a third of the population lack even the basic necessities of life. The real malnutrition rate, according to some sources, is 26 per cent.

69. Serious epidemics have been left untreated because the war uses up most of the country's income.

### Situation of women

70. The situation described in previous reports remains unchanged. A new form of discrimination has appeared: women's organizations have lost their voice to a para-State group known as Regroupement des Femmes Congolaises (REFECO), and their employment and educational situation has deteriorated as a result of the war.

71. Sources have told the Special Rapporteur that 8 per cent of women have acquired immunodeficiency syndrome (AIDS), owing to poverty, lack of education and, especially, sexual contact with Rwandan and Ugandan soldiers, whose countries have a high AIDS rate.

72. Only 24 out of 300 members of the Constitutional and Legislative Assembly are women.

### Situation of children

73. The right to education has been greatly curtailed by the war and poverty, resulting in irreparable harm to many children. Violations of children's rights also include child labour in inhumane conditions in the diamond mines.

74. On a more positive note, Decree Law 66 was enacted in June 2000, demobilizing children and other vulnerable groups and creating a commission on demobilization and reintegration.

### Freedom of conscience and religion

75. The Special Rapporteur is dealing with this topic for the first time. The Government regards religious congregations as enemies who are allied with rebellion or aggression. Peace messages are viewed with suspicion, and the proclamation of freedom and justice are considered subversive. Presbyterian churches, the Ubangi-Mongola Evangelical Community, the Bundu dia Kongo sect, the Siani and Unification/Cabinda, together with German, Austrian and Belgian priests and a Catholic bishop, have been repressed.

## VI. Human rights violations committed in territory occupied by RCD and MLC

### Violations in RCD territory

#### Right to life

##### *Death penalty*

76. The Special Rapporteur had welcomed the fact that RCD did not apply the death penalty (see E/CN.4/2000/42, para. 81). Nevertheless, on 17 March 2000, the *Conseil de guerre opérationnelle*, in two proceedings within 24 hours, tried a corporal, who was executed on the spot, and three other persons condemned to death in July 2000 were taken from the prison and never returned.

##### *Political murders*

77. Soldiers referred to as "Banyamulenge", "Rwandans", "Ugandans" and "Burundians" have committed countless murders of persons suspected of being members of the Mai-Mai or Interahamwe. Among the victims are priests, Protestant pastors, Baptists, traditional tribal leaders and peaceful citizens. Three youths were murdered simply because they bore tattoos, leading Burundian soldiers to assume that they were members of the Mai-Mai.

##### *Death by torture*

78. The frequency and cruelty of torture was mentioned frequently to the Special Rapporteur. One person was arrested and tortured to death for carrying out political activity in Kiwandja (North Kivu) in March 2000.

#### Right to physical and psychological integrity

79. Most of the complaints of torture involve the police headquarters known as *chien méchant* ("vicious dog") and "Bureau II", which sources say are administered by "Rwandan soldiers" and, in Kisangani and Bunia, by "the Ugandans". It is claimed that Congolese are among the victims, as well as Rwandans transferred from Rwanda. The victims are mainly those suspected of being members of the Mai-Mai and Interahamwe. Representatives of the Human Rights Office in Goma can only visit the jails, like other detention centres. The Special Rapporteur confirmed

that the records of the RCD Sixth Brigade do not account for all inmates.

### **Right to liberty of person**

#### *Arbitrary detention*

80. Human rights defenders, leaders of civil society, journalists and members of the clergy have continually been deprived of their freedom and are at constant risk of being detained again. The arrests are aimed at suppressing activities lawful in a democratic society, such as dissidence, criticism, education, culture and freedom of conscience, or are preventive: persons suspected of not being devoted to the RCD authorities are detained because of actions that they might carry out, as occurred, for example, prior to the civil strikes carried out in Goma, Bukavu and elsewhere. Resigning from RCD carries with it the certainty of arrest. The same thing happens in territory occupied by RCD/Bunia, where two high-ranking leaders of RCD/ML were detained and tortured near Bunia in July 2000.

#### *Deportations*

81. In Geneva in March 2000, the RCD authorities explained to the Special Rapporteur that there are no cases of deportation of prisoners from the Democratic Republic of the Congo to Rwanda, Uganda or Burundi and that, at most, prisoners of war are involved. The incidents are more frequent under RCD/Bunia than under RCD/Goma. In any event, the Special Rapporteur emphasizes that, during the period under review, he learned of various cases of human rights defenders and others (traders) detained in Congolese territory and taken to Katuna (Rwanda) or Uganda.

### **Right to enter and leave one's own country**

82. There are lists of persons linked to human rights organizations who have been prevented from leaving RCD-controlled territory; many cannot even leave Kivu. In early March 2000 there were reports of an ordinance which prevents all Congolese from travelling to countries other than Rwanda or Burundi without official permission, which is generally denied. Even members of the Protestant clergy could not travel to a conference in Nairobi in 1999.

### **Right to due process**

83. Generally speaking, defendants are not tried; their release is at the discretion of the authorities. In any event, the most serious breaches of the norms of due process stem from the guarantee of impunity for the massacres, murders and tortures inflicted on those accused of inciting hatred. The so-called, belated prosecution of the person responsible for the deaths of 15 women in Mwenga ended with the flight of the individual who is seen as the main perpetrator and as an emblematic figure because of his ferocity. The fact that those allegedly responsible for the flight are being prosecuted in no way justifies the action.

### **Right to freedom of expression and opinion**

84. There have been no changes with regard to the statements made in document E/CN.4/2000/42, paragraphs 91 to 93. There is no freedom of expression; there are no daily newspapers; Radio Maendeleo was returned to its operators, but has been prohibited from broadcasting political opinion and news.

85. In Kisangani, while Rwandans and Ugandans shared power, the radio stations vehemently incited racial hatred: *Liberté*, against the Rwandans, and *RTNC/Rebelde*, against the Ugandans. But the victims are Congolese.

### **Freedom of association**

86. There are, of course, no political parties, except RCD and FROUNAR, for example, which RCD formed prior to the visit of the Facilitator, Ketumile Masire, in May 2000. All political activity is prohibited and punished.

#### *Human rights organizations*

87. RCD responded to the report of the Special Rapporteur, claiming that it was established beyond a doubt that the non-governmental organizations in South Kivu were operating with financial support from the Kabila Government and that they are the sources of information for the Special Rapporteur. That point was emphasized during the visit. In fact, the non-governmental organizations are severely persecuted, always on the charge of inciting ethnic hatred, but not a shred of evidence has been presented in this regard. Many defenders have been imprisoned, tortured and threatened and many have had to seek refuge abroad.

### Freedom of assembly

88. No allegedly critical gatherings are tolerated, and the protests called *villes mortes* (civil strikes) have been suppressed with arrests and threats.

### Economic, social and cultural rights

89. The extremely serious situation throughout the country is particularly serious in the east: malnutrition in Kisangani reportedly affects 30 per cent of adults and 60 per cent of children. Civil servants remain unpaid. The health care system is destroyed and family members usually take turns eating.

### Situation of women

90. In addition to the Mwenga incident, mention should be made of the arrests of feminist activities, rapes and beatings of female secondary-school students detained for insisting on the validity of their examinations in the Democratic Republic of the Congo, and continual cases of rape of women detainees.

### Situation of children

91. As in the Democratic Republic of the Congo, RCD is establishing a commission for demobilization of child soldiers. Nevertheless, the Mission has noted that the level of recruitment of children is much higher in the east than under Kabila. An example of this is Nyaleke, near Beni, where Ugandan soldiers are training 10-year-old children.

### Freedom of conscience and religion

92. In RCD territory, too, the Catholic and Protestant churches are persecuted because of their messages of peace; this has made it possible to assert that the only thing that unites Rwandans and Ugandans is their hatred of the Christian churches. In the east the majority Catholic Church has been the most persecuted: murders of several priests, banishment of the Archbishop of Bukavu, attacks on convents and parish houses, and so on.

### Human rights violations in MLC territory

93. There is minimal information on the region, which has negligible civic activity. There are very few non-governmental organizations and newspapers. The

Special Rapporteur spent a few hours visiting the small hamlet of Gbadolite, but was unable to visit other towns in which there are more victims of human rights violations.

## VII. Violations of international humanitarian law

### A. Violations by the Government, allies and related groups

#### Government

94. The Government is responsible for the bombings of the Libenge hospital on 27 July 2000; of Gemena and elsewhere, which affected civilian populations; and of aircraft loaded with poliomyelitis vaccines (war against MLC).

#### Mai-Mai

95. The Government's support for the Mai-Mai makes it responsible for the offences perpetrated by the latter. While, generally speaking, they attack Rwandan and RCD soldiers, they have also committed violence against civilians suspected of collaborating with those whom they regard as the "enemy". The growing popularity which they enjoy among the Congolese does not absolve them of responsibility. Among their acts of brutality are those at Lubero in April 2000, Nyabibwe, Numbi (50 dead) and Kihuha in July 2000.

#### Interahamwe/ex-FAR combatants

96. The Interahamwe and ex-FAR combatants are responsible for attacks on the civilian population (Loashi, Luhinzi, Rutshuru, Kione, Ngesha and many others). In the villages which they attack they commonly rape women and girls.

#### Freed Rwandan prisoners

97. It should be noted that freed Rwandan prisoners who had been held in Kinshasa acknowledged that they had been well treated while they had been prisoners of the Zimbabweans, to the point where at least four preferred to stay in Kinshasa rather than return to their homeland.



## **B. Violations by RCD, RCD/ML, MLC and allied foreign military forces**

### **Components of RCD**

98. The population does not distinguish among the various components of RCD, which it identifies as Rwandan soldiers or Banyamulenge.

99. Any attack by members of the Interahamwe, Mai-Mai, and so on is met by totally disproportionate violence; massacres are committed, resulting in many deaths. Mere suspicion of sympathy with the Mai-Mai provokes reprisals against the civilian population: Ngenge (November 1999); Kalehe (December 1999, 23 dead); Kilambo (February 2000, 60 dead); Katogota (May 2000, 40 to 300 dead); Kamanyola, Lurbarika, Luberezi, Cidaho, Uvira, Shabunda; Lusenda-Lubumba (July 2000, 150 dead).

100. Particularly reprehensible is the treatment of prisoners by Rwandan soldiers. The Special Rapporteur visited one Congolese soldier taken prisoner in Katanga who was beaten, tortured, castrated and abandoned, a practice condemned earlier by the Special Rapporteur (see E/CN.4/2000/42, para. 117).

101. Humanitarian assistance has been intercepted and diverted to Congolese Batusti repatriated from Rwanda.

### **Burundian soldiers**

102. Burundian soldiers are accused of killing nine civilians in Sebele in reprisal for a Mai-Mai attack in April 2000.

### **Ugandan troops**

103. Ugandan troops have murdered civilians. The most serious incidents occurred during the Ugandan-Rwandan battle at Kisangani, in whose vicinity, furthermore, they planted antitank and anti-personnel mines.

104. In alliance with the Bahema, they have committed atrocities against civilians (for example, Libi, March 2000, nine dead) and taken civilians prisoner, including children (Walendu Tatsi).

105. Ugandan troops also shelled a boat in which women and children were fleeing the war, causing some 30 deaths; no assistance was given to them.

106. They recruit many child soldiers.

## **VIII. Conclusions and recommendations**

### **A. Conclusions**

#### **The catastrophe in Central Africa**

107. Central Africa is a region of great riches, but its inhabitants are living in extreme poverty. The terrible history of unscrupulous dictators — all of whom, however, had support from abroad — is one of the causes of the catastrophic situation that now exists. Eight national armies and numerous armed groups are involved in the primary war between the Democratic Republic of the Congo and Uganda, Rwanda and Burundi, which may rightly be called the first world war in Africa, and nine more armed conflicts are taking place in the same country. Extreme poverty, which existed even prior to the current wars, has reached catastrophic levels that have been further increased by the war. The Congolese people cannot understand why those responsible for their problems, who are members of the international community, do not come to their aid now.

108. The parties, their allies, other African countries, the major Powers, the Organization of African Unity (OAU) and the United Nations have failed to achieve peace since it seems that economic and political interests other than those of the Congolese people are involved in the Democratic Republic of the Congo, and the Congolese are aware of this fact. There can be no peace in the Democratic Republic of the Congo without lasting peace in the region. There are historical conflicts and ambitions that require long-term solutions based on respect for principles on which there can be no disagreement: respect for the human rights of all Congolese, justice for those responsible for the crimes against humanity which have been committed and respect for the borders inherited from the colonial era.

#### **The armed conflict**

109. None of the parties to the nine conflicts, whether internal, internationalized internal or international, is fully respecting the Lusaka Ceasefire Agreement, although there has been no significant change in their positions. The Congolese consider the Rwandan, Ugandan and Burundian armies to be "aggressors" rather than as providing support to the rebels. While the activities of the Interahamwe and Mai-Mai are the

primary cause of the violence, it is the armies of Rwanda, Uganda, Burundi and Rassemblement congolais pour la démocratie (RCD) which are causing the greatest damage and which have once again committed terrible massacres of the civilian population. In addition, Rwanda and Uganda have expanded their own conflicts into Congolese territory, causing death and destruction on neighbouring soil.

#### **The occupation of the Democratic Republic of the Congo**

110. The Special Rapporteur has often been asked whether the occupation of the Democratic Republic of the Congo should be considered permanent. That issue should not even be raised since there can be no justification for the conquest or partition of a country by foreign forces. This is the position stated in the fourth preambular paragraph of Security Council resolution 1304 (2000). In occupied territory, the sense of humiliation and terror described in previous reports still prevails.

#### **Immediate effects of the Special Rapporteur's visit**

111. Days prior to the visit, and particularly during his visit to the Democratic Republic of the Congo, both in Government- and RCD-controlled territory, prisoners were freed or transferred from illegal detention centres to official jails; judicial proceedings that should have begun months previously were opened; sick prisoners were given better medical care and journalists were given greater access to information sources.

#### **Violations of international humanitarian law**

112. The most serious incidents were the massacres committed by RCD and Rwandan forces, attacks on civilians during the Rwandan-Ugandan wars and Government bombing of civilian populations in the north.

#### **Human rights**

113. In the Government-controlled territory, the rights most affected are political rights (participation, assembly, association and freedom of expression). In RCD- and RCD/ML-controlled territory, the rights most often violated are human rights (life and physical integrity) without prejudice to political freedom. There

is insufficient information on the MLC-controlled territory.

#### **Right to democracy**

114. Neither the Government authorities nor those of RCD, RCD/ML or MLC have taken any steps towards democracy. The Government continues to reject all dialogue with the national democratic opposition; it persecutes political parties, continues to declare them illegal and punishes their leaders and activists. It rejects the mediator whom it had previously accepted. It is establishing new and illegal structures. In the occupied territories there is only one party, either RCD or MLC. Other parties only appear to exist. Those not in sympathy with RCD have ceased all activities and their leaders have chosen exile. MLC is the only party in the territory it controls.

#### **Human rights advocates**

115. They are persecuted by both sides; one considers them to be "in league with the rebels", the other considers them to be "in Kabila's pay" or "Interahamwe or Mai-Mai collaborators".

#### **Death penalty**

116. The Government maintains it but has not implemented it since February 2000. RCD, which had never implemented it, began to do so in 2000.

#### **Liberty of person**

117. It is constantly violated, and there are many political prisoners on both sides. The Kinshasa amnesty was encouraging, but it did not affect all prisoners and politically-motivated imprisonment of, inter alia, Ministers and other high-level officials has continued.

#### **Freedom of expression**

118. There is none. In Government-controlled territory, there are a few newspapers with a limited circulation and journalists are regularly harassed. In RCD-controlled territory there are no opposition newspapers and the few independent radio stations have been shut down, censored and prevented from broadcasting any news programmes other than the official ones.

### **Torture**

119. Torture is practised by all parties and in many instances it has resulted in death.

### **Right to due process**

120. It is not respected by any of the parties. In the Democratic Republic of the Congo, the Military Court, which is the only court in which civilians, journalists and human rights advocates are tried, remains fully functional. Victims of human rights violations are not granted redress, a fact which further confirms impunity. In RCD-controlled territory, the death penalty has been reinstated through trials of the most summary nature in which no defense is admitted.

### **Freedom of movement**

121. In both Kinshasa and Goma, members of the opposition are prevented from leaving the country and even from movement within it.

122. But the most serious issue is the deportation of Congolese citizens to Rwanda, where, in many cases, all trace of the prisoner is lost.

### **Freedom of conscience**

123. In both sectors, religious persecution has been a constant throughout the year. Bishops, priests and ministers have been arrested, tortured, expelled and murdered. The most emblematic case has been that of the Archbishop of Bukavu, who was expelled from his diocese by RCD.

### **Persons at risk**

124. The Government, with international assistance, has continued to provide protection to people who look like Tutsi in order to prevent reprisals against them, thereby disproving accusations of genocide.

### **Women and children**

125. The situation continues to worsen. The Government and RCD have taken steps to demobilize children, but neither MLC nor the Ugandan troops have done so.

## **B. Recommendations**

### **The parties in the wars**

126. The Special Rapporteur recommends that the parties in the wars should: (a) fully implement the Lusaka Agreement and the necessary agreed adjustments thereto, considering the provisions of Security Council resolution 1304 (2000); (b) cooperate with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC); and (c) put an end to all forms of impunity.

### **The Government**

127. The Special Rapporteur recommends that the Government should: (a) immediately establish the inter-Congolese dialogue, cooperating closely and actively with the Facilitator, who is a friend of the Congolese people, and with those who accompany him; (b) repeal the legislation on political parties and non-governmental organizations, recognize those which already exist and allow them to operate; (c) abolish the death penalty; (d) eliminate the Military Court; (e) free all political prisoners; (f) cease all forms of pressure or censorship of the press; (g) abolish the Constitutional and Legislative Assembly in order to permit the dialogue agreed to in Lusaka; (h) cease all cooperation with the Mai-Mai and the Interahamwe; (i) commute death sentences; (j) begin the demobilization of child soldiers; (k) restore relations with other States, intergovernmental organizations, the United Nations and OAU and attend the conferences and meetings organized by them since none of them is an enemy of the Democratic Republic of the Congo and all of them are simply endeavouring to assist it; (l) authorize the Human Rights Field Office in the Democratic Republic of the Congo to visit not only the jails, but all places of detention; (m) implement a human rights action plan; and (n) give international human rights instruments precedence over national law and honour the commitments made under them.

### **RCD and other rebel groups**

128. The Special Rapporteur recommends that RCD and other rebel groups should: (a) cease all cooperation with foreign armies; (b) avoid committing any act which implies the exercise of sovereignty over foreign armies (including the flying of flags, partition or creation of provinces, town-twinning or sale of public property); (c) refrain from issuing fictitious accounts of

the atrocities committed by their troops and foreign allies and conduct objective investigations of allegations; (d) free political prisoners; (e) demand that their foreign allies return the deported Congolese to the State; (f) abolish the death penalty; (g) cease to interpret all acts of opposition as an alleged incitement to ethnic hatred; (h) permit organizations of civil society, particularly human rights organizations, to function freely; and (i) demobilize child soldiers.

#### Foreign armies occupying Congolese territory

129. The Special Rapporteur recommends that the foreign armies occupying Congolese territory should: (a) implement the Lusaka Agreement and, in particular, Security Council resolution 1304 (2000), which demands that they should withdraw immediately and prior to the withdrawal of the forces present at the Government's invitation; (b) accept the fact that they have lost all respect in the eyes of the Congolese people and refrain from all reprisal; (c) permit investigations of violations of human rights and international humanitarian law and, in particular, of the massacres that took place on 2 August 1998; (d) provide immediate compensation to the victims of the incidents that occurred at Kisangi and in other parts of the Democratic Republic of the Congo; and (e) return the Congolese property that has been taken from the country since 1998.

#### Organs of the United Nations

130. The Special Rapporteur recommends that the organs of the United Nations should: (a) continue to support the peace process in the Democratic Republic of the Congo and the inter-Congolese dialogue; (b) heed the words of the special rapporteurs on human rights in order to prevent recurrence of the incident reported in the Carlsson report on the occasion of the genocide in Rwanda, which a special rapporteur had predicted a year in advance without any action being taken. This recommendation is especially important in light of the establishment of peacekeeping mechanisms; (c) provide greater financial and logistical assistance to the mechanisms of the Commission on Human Rights; and (d) establish an effective arms embargo on all countries involved in the Congolese conflict.

#### Other organs of the international community

131. The Special Rapporteur recommends that other organs of the international community should: (a) support the peace process, the inter-Congolese dialogue and the democratization process; and (b) make their voices heard and their moral authority felt with regard to the massacres committed on Congolese soil.

#### Notes

- <sup>1</sup> Chad withdrew its forces on 26 May 1999. The Sudan has troops in the Democratic Republic of the Congo, but these are not participating in the fighting.
- <sup>2</sup> The Security Council (see S/PRST/2000/20) established an expert panel on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo.
- <sup>3</sup> The Mai-Mai guerrillas, originally from the Banande and Bahunde tribes, have enlisted thousands of young people from all ethnic groups who are opposed to what they refer to as "Rwandan aggression". See E/CN.4/1999/42, note 4.
- <sup>4</sup> In his report to the Commission on Human Rights (see E/CN.4/2000/42, para. 18), the Special Rapporteur stated that there is a general feeling throughout the country that the international community is not doing anything to end the conflict but that when that abstraction does do something, it is rejected for doing so. This reaction confirms this.
- <sup>5</sup> See, for example, the statement by the Conference of Catholic Bishops in August 2000.
- <sup>6</sup> The Special Rapporteur's report to the Commission on Human Rights (E/CN.4/2000/42) deals with individual cases of human rights violations.

**ANNEX 3.2**

**United Nations Security Council, *Special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2002/1005, 10 September 2002**



## Security Council

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### **Special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. The present report is submitted pursuant to the statement of the President of the Security Council of 15 August (S/PRST/2002/24), in which the Council requested me to put forward recommendations on how the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and, through the Mission's coordination, all relevant United Nations agencies can assist the parties in the fulfilment of their responsibilities to implement the Peace Agreement between the Governments of the Democratic Republic of the Congo and the Republic of Rwanda on the Withdrawal of the Rwandan Troops from the Territory of the Democratic Republic of the Congo and the Dismantling of the ex-FAR and Interahamwe Forces in the Democratic Republic of the Congo (S/2002/914, annex), signed in Pretoria on 30 July 2002.

2. The present report outlines the tasks associated with the Pretoria Agreement and contains recommendations on action that the United Nations could take to assist the parties in its implementation. It also contains an analysis of the Agreement between the Governments of the Democratic Republic of the Congo and the Republic of Uganda on the Withdrawal of Ugandan Troops from the Democratic Republic of the Congo, Cooperation and Normalization of Relations between the Two Countries, signed by the States concerned in Luanda on 6 September. In addition, the report describes the situation in the north-eastern Democratic Republic of the Congo and sets forth recommendations on action that the United Nations could take in this regard.

3. Other developments since the issuance of my eleventh report on MONUC (S/2002/621) will be reflected in a further report, which will be submitted to the Security Council in early October.

#### **II. Provisions of the Agreements and action taken to date**

##### **A. Pretoria Agreement**

4. In Pretoria on 30 July 2002, the Heads of State of the Democratic Republic of the Congo and Rwanda signed the Peace Agreement on the withdrawal of Rwandan troops from the Democratic Republic of the Congo and the dismantling of the former Rwandan Armed Forces (ex-FAR) and Interahamwe forces in the Democratic Republic of the Congo. The President of the Republic of South Africa and I signed the Agreement as witnesses.

5. Key provisions of the Agreement relate to the undertaking of the Democratic Republic of the Congo Government to continue the process of "tracking down and disarming" (S/2002/914, annex, para. 8.1) the Interahamwe and ex-FAR within the territory under its control. The Democratic Republic of the Congo Government has also agreed to collaborate with MONUC, the Joint Military Commission (JMC) and "any other force constituted by the third party, to assemble and disarm the ex-FAR and Interahamwe" (ibid., para. 7) in the whole of the territory of the Democratic Republic of the Congo. The Government of Rwanda, for its part, has committed itself to withdrawing its troops from the Democratic Republic

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of the Congo “as soon as effective measures that address its security concerns, in particular the dismantling of the ex-FAR and Interahamwe forces, have been agreed to” (ibid., para. 5). The Agreement stipulates that Rwanda’s withdrawal should start simultaneously with the implementation of these two measures, both of which will be verified by MONUC, JMC and the third party.

6. The third party — which is defined as “the Secretary-General of the United Nations and South Africa, in its dual capacity as Chairperson of the African Union and as facilitator” (ibid., p. 4) — is entrusted with a number of verification tasks, including the verification of information to be provided by the parties on the armed groups, and of the implementation of effective measures in regard to their dismantling. MONUC is specifically called on to immediately complete its phase III deployment and to operationalize and provide security at assembly points for ex-FAR/Interahamwe elements, as well as to facilitate their repatriation.

7. The Programme of Implementation of the Peace Agreement (ibid., pp. 4-6) envisages a 90-day timetable and includes the following elements:

(a) The establishment of a third-party verification mechanism;

(b) The finalization of MONUC phase III deployment;

(c) The establishment of assembly points for ex-FAR/Interahamwe elements;

(d) The tracking down, disarming and dismantling of those armed groups;

(e) Various monitoring and verification tasks;

(f) The complete withdrawal of Rwandan troops from Democratic Republic of the Congo territory.

Subsequently, the third party is to conduct the final verification of the completion of the 90-day Programme of Implementation and submit a report within 30 days thereafter.

#### **Action taken to date**

8. Following the signing of the Pretoria Agreement, the United Nations undertook consultations with the Governments of South Africa, the Democratic Republic

of the Congo and Rwanda in order to gain greater insight into the background to the Agreement and to seek the clarifications necessary for the Organization to plan its role in support of the Agreement. Several meetings were held with delegations from the three countries during the week of 5 August 2002. Additional clarifications were provided on 8 August at the meeting that the Security Council held with the Ministers for Foreign Affairs of South Africa and the Democratic Republic of the Congo and the Special Envoy of the President of Rwanda on the Great Lakes region. On 6 August, the Department of Peacekeeping Operations provided the Security Council with a preliminary analysis of the implications of the Pretoria Agreement.

9. On 9 August, following consultations with a South African Government delegation at United Nations Headquarters, a joint communiqué was issued in New York on the establishment of a secretariat of the third-party verification mechanism. That communiqué indicated the readiness of the United Nations and South Africa to work closely together to oversee and verify the implementation of the commitments made by both signatories. The communiqué also announced that the secretariat of the verification mechanism would comprise the following personnel, to be assisted as required by the necessary experts: for the United Nations, my Deputy Special Representative for the Democratic Republic of the Congo and the Deputy Force Commander of MONUC; and for South Africa, the Security Adviser to the President, the Foreign Affairs Adviser to the President, the Chief Director for Central Africa of the Department of Foreign Affairs and the Special Representative of the Department of Defence.

10. Subsequently, the secretariat of the third-party verification mechanism was established in Kinshasa. It will also have a liaison group in Kigali. MONUC intends to extend its fullest cooperation to the verification mechanism by, inter alia, assisting in carrying out the latter’s verification tasks. At the same time, MONUC will continue to discharge the mandate entrusted to it by the Security Council, in accordance with its established chain of command and procedures. The terms of reference for the verification mechanism are in the process of being finalized.

11. The third-party verification mechanism held its first meeting in Kinshasa on 21 August and discussed its programme of work and rules of procedure. It also

held initial meetings with the Governments of the Democratic Republic of the Congo and Rwanda on 26 and 27 August to discuss the way forward and to request that they appoint contact groups to serve as their primary interlocutors vis-à-vis the verification mechanism. The mechanism will determine in due course specific modalities for the various verification tasks envisaged in the Pretoria Agreement.

12. In the course of my recent visit to southern Africa, I conducted extensive consultations with regional leaders on the various practical modalities for the implementation of the Pretoria Agreement.

13. Since the signing of the Agreement, the Governments of the Democratic Republic of the Congo and Rwanda have maintained regular contacts to discuss its implementation. The Government of Rwanda has provided the third-party verification mechanism with initial information on its plan for the withdrawal of its troops from the Democratic Republic of the Congo, as well as information concerning the Rwandan armed groups operating in the Democratic Republic of the Congo. However, a preliminary assessment of these documents has indicated that much more information is required in these areas. The verification mechanism, in the meantime, is also awaiting the Democratic Republic of the Congo Government's submission of information concerning the ex-FAR/Interahamwe elements allegedly present in the western Democratic Republic of the Congo, including, in particular, information on the whereabouts of their known leaders.

## **B. Luanda Agreement**

14. On 6 September 2002, at Luanda, the Heads of State of the Democratic Republic of the Congo and the Republic of Uganda signed an Agreement on the withdrawal of Ugandan troops from the Democratic Republic of the Congo and cooperation and normalization of relations between the two countries. The Head of State of Angola signed the Agreement as a witness.

15. Under the Agreement, the Government of Uganda committed itself to the continued withdrawal of its forces from the Democratic Republic of the Congo in accordance with a jointly agreed calendar. In particular, the Ugandan troops are to immediately withdraw from Gbadolite, Beni and their vicinities. Uganda also

reaffirmed its readiness to withdraw its troops from Bunia following the establishment of an administrative authority in Ituri. The agreement also stipulates that Ugandan troops on the slopes of Mount Ruwenzori will remain until the parties put in place "security mechanisms guaranteeing Uganda's security", including coordinated patrols along the common border of the two countries.

16. With regard to the situation in Ituri, the two parties have agreed to establish, with the assistance of MONUC, a Joint Pacification Committee on Ituri comprising representatives of the Governments of the Democratic Republic of the Congo and Uganda and various leaders on the ground. According to the implementation calendar annexed to the Agreement, the Committee would be established within 20 days of the signing of the Agreement. Following a decision on a mechanism to maintain law and order in Ituri, an administrative authority would be set up. Subsequently, Uganda would develop a plan for withdrawal from Bunia that would envisage the completion of the withdrawal of the Ugandan People's Defence Force (UPDF) within 100 days.

17. Other provisions of the Agreement concern the normalization of relations between the Democratic Republic of the Congo and Uganda, including through the restoration of the sovereignty of the Democratic Republic of the Congo, while Uganda's security concerns are also addressed; by refraining from all types of military and logistical support to the armed groups; by expediting the pacification of the Democratic Republic of the Congo territories currently under Ugandan control and the normalization of the situation along the common border between the two countries; through exchanges of intelligence on all matters of security interest; by restoring full diplomatic relations; and by re-establishing the Joint Ministerial Commission for cooperation in various areas, including defence, security, trade, investment, infrastructure, transport, communications and cultural exchanges. The parties also agreed to resolve any future differences between them through dialogue and other peaceful means.

18. At the time of the preparation of this report, the Government of Uganda had withdrawn some 1,200 troops from Beni and 650 troops from Gbadolite since late August. MONUC has observed the return of these UPDF troops to Uganda. It is expected that the



withdrawal of Ugandan troops from those locations will be completed by the end of September.

### **III. Implementation challenges**

#### **A. Pretoria Agreement**

19. The signing of the Pretoria Agreement has been characterized by the parties and the facilitator as an effort to overcome the main obstacles to the implementation of the Lusaka Ceasefire Agreement (S/1999/815, annex), namely, the lack of progress in the withdrawal of Rwandan troops and in the disarmament, demobilization, repatriation, resettlement and reintegration of ex-FAR/Interahamwe elements operating in the Democratic Republic of the Congo. Hence, it provides a political framework within which the main issues of concern could be addressed, thus enabling the parties to resolve their long-standing conflict.

20. It is in this context that the MONUC concept of operations for phase III has been revised, as outlined in section IV below, to reflect the adjustments necessary to support the implementation of the Pretoria Agreement, including the various verification tasks envisaged for the third-party verification mechanism and voluntary, progressive disarmament, demobilization, repatriation, resettlement and reintegration of the armed groups in the Democratic Republic of the Congo, with an emphasis on the ex-FAR/Interahamwe elements.

21. The key to operationalizing the Pretoria Agreement will be the continued resolve of both parties to work closely with each other — with the assistance of the third party — in a climate of confidence. It is only in this context that a number of continuing differences — such as the divergence of views between the two Governments on the number and locations of the Rwandan armed groups and on the yet-to-be-defined “effective measures” (S/2002/914, annex, para. 5) regarding the dismantling of the ex-FAR/Interahamwe — can be overcome. It will also be important for the parties to reach — as soon as possible — a common understanding on their obligations under the Agreement. President Mbeki’s proposal of monthly, or at least regular, review meetings at the Head of State level should therefore be strongly supported, since such meetings would be an

essential instrument in maintaining the resolve of the parties and ensuring that the process remains on track.

22. The continuing contacts between the parties since the signing of the Pretoria Agreement are encouraging signs of their commitment to the peace process. At the same time, the reported intensification of military activity on the ground and a recent exchange of public accusations regarding non-compliance with the Agreement may not be conducive to the prompt implementation of the Agreement. While the cessation of hostilities between the Governments of the Democratic Republic of the Congo and Rwanda has largely held along the disengagement line for some time, it will be crucial for the parties to demonstrate their commitment to the Pretoria Agreement by ensuring that secure conditions are created both for MONUC’s deployment and for the voluntary disarmament of the armed groups. The parties will also need to exert influence over those concerned to lay down their arms and enter into a voluntary disarmament, demobilization, repatriation, resettlement and reintegration process.

23. Although not directly linked to the Pretoria Agreement, an overall political settlement among the parties to the inter-Congolese dialogue is also a critical element for ensuring its successful implementation. An all-inclusive transitional Government should be in a position to effectively extend its authority throughout the Democratic Republic of the Congo, following the withdrawal of foreign forces. Obviously, the ongoing efforts of my Special Envoy, Mustapha Niasse, require the strong support of all concerned, with a view to a timely, all-inclusive agreement among the Congolese parties on the transitional arrangements.

#### **B. Luanda Agreement**

24. The Agreement reached between the Governments of the Democratic Republic of the Congo and Uganda provides for the total withdrawal of the latter’s troops from the Democratic Republic of the Congo and the normalization of the relations between the two countries. As regards Bunia, a key town in the resource-rich Ituri region that was until recently a political hub for the Rassemblement congolais pour la démocratie-Kisangani/Mouvement de libération (RCD-K/ML) in an acutely contested territory, Uganda’s decision to withdraw its battalion from this area once

an administrative authority has been established in Ituri could have both positive and negative consequences.

25. As indicated in my previous reports to the Security Council, Ituri has for decades been afflicted by a series of violent clashes, particularly between the Lendu, the Hema and their affiliated groups. It should be noted, however, that the Lendu-Hema tension does not represent a typical majority-minority conflict as witnessed elsewhere. Since June 1999, the tension in Ituri has reached an unprecedented level, with — according to the Democratic Republic of the Congo Government — up to 20,000 people having lost their lives. Recently, in the whole of Ituri, which has a population of 4.6 million, some 500,000 people were newly displaced, with 60,000 displaced in Bunia alone. The precarious security situation was vividly illustrated by the assassination in April 2001 of six International Committee of the Red Cross workers by unidentified assailants some 30 kilometres from Bunia, which is speculated to have been an effort to keep the eyes and ears of the international community away from the situation there.

26. The ongoing extreme violence is often attributed to a lack of impartial administration; to the power struggle between the leaders of the RCD-K/ML; to rivalry between prominent business people over economic interests; to perceived or real interference by some UPDF elements on the ground; and to ongoing efforts to build up ethnically based militias by various sponsors who have different political, military and economic motivations.

27. The total number of killings in Ituri in recent weeks is impossible to ascertain. It is widely accepted that in Bunia itself there have been hundreds, but as the violence has increased and spread to villages as far as 90 kilometres from Bunia, figures provided by non-governmental organizations and other sources have suggested that thousands may have died in August alone, with tens of thousands displaced, although it has not been possible to confirm these figures independently. A recently well-supplied Hema/Gerere militia group, the Union des patriotes congolais (UPC), has reportedly captured important towns on the Mahagi-Bunia-Beni axis, establishing its control of the immediate environs of Bunia, thereby reducing the RCD-K/ML power base. The Lendu and Hema communities are now deeply suspicious of each other and have entered a deadly cycle of revenge killings. In recent months, individuals who have reportedly sought

to restore normalcy have received death threats, forcing them to flee the area.

28. On 29 August, the Human Rights Minister of the Democratic Republic of the Congo, Mr. Luaba Ntumba, and his associates, were abducted by a group of UPC militia members near the Bunia airport. The hostages were released three days later in exchange for the return to Bunia of nine associates of the UPC leader, Thomas Lubanga, who was formerly an RCD-K/ML leader in charge of the movement's "defence portfolio". MONUC assisted in this situation by providing good offices and appealing to all concerned to reach a peaceful solution.

29. While any long-term solution must be based on the withdrawal of all foreign troops from the area and the introduction of a legitimate national authority that will exercise impartially its civil administration responsibility, it is unlikely that such an administration — acceptable to all communities in Bunia — can be effectively installed at short notice. Despite a general perception that some UPDF troops have not acted even-handedly, for the time being they remain the only force in Bunia that can provide security, albeit limited and localized. It should also be noted that the situation in the north-east has been further destabilized by a military offensive conducted by RCD-National, reportedly backed by the Mouvement de libération du Congo (MLC), towards Isiro. RCD-National has reportedly advanced to within 200 kilometres of Bunia.

30. The need to address the deteriorating situation in Bunia is critical not only for the implementation of the Luanda Agreement, but also for the normalization of security conditions in the north-east and the furtherance of the peace process in the Democratic Republic of the Congo in general. The proposed MONUC role in this regard is outlined in paragraphs 57-63 below.

#### **IV. Role of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the Agreements**

31. My ninth report to the Security Council (S/2001/970) presented the initial plan of MONUC for its phase III deployment, which indicated that the

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Mission would take a step-by-step approach to the implementation of disarmament, demobilization, repatriation, resettlement and reintegration of the armed groups while continuing with relevant phase II tasks, in particular monitoring the disengagement of the parties to new defensive positions, investigating alleged ceasefire violations and observing the withdrawal of foreign forces.

32. Over the past year, MONUC has made considerable strides in its phase II activities, but also in preparing for its phase III tasks, in particular by deploying civilian and military personnel in Kindu and Kisangani. In this regard, the preliminary information gathered on the armed groups was provided to the Security Council in the annex to my letter of 1 April 2002 (S/2002/341). However, in the absence of an overall political agreement on disarmament, demobilization, repatriation, resettlement and reintegration and without a cessation of hostilities in the eastern parts of the country, the Mission has not been able to achieve much with regard to disarmament, demobilization, repatriation, resettlement and reintegration beyond providing assistance in response to ad hoc requests for demobilization and repatriation of combatants such as those assembled in Kamina and Beni, and planning for the wider disarmament, demobilization, repatriation, resettlement and reintegration operation.

33. The Pretoria and Luanda Agreements, which support the principles laid down in the Lusaka Agreement, now provide a concrete opportunity to move forward with the disarmament, demobilization, repatriation, resettlement and reintegration of armed groups and the withdrawal of Rwandan and Ugandan forces.

## **A. Disarmament, demobilization, repatriation, resettlement and reintegration**

### **1. Principles involved in the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups**

34. The main principles that will guide MONUC involvement in the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups are as follows:

(a) The Democratic Republic of the Congo and Rwanda must provide all information they possess on the locations, numbers, and weaponry of the armed groups, to be verified by the third-party verification mechanism;

(b) Disarmament, demobilization, repatriation, resettlement and reintegration activities will take place in a permissive environment, which is to say, a cessation of all hostilities is necessary;

(c) The disarmament, demobilization and repatriation of armed groups will be undertaken on a voluntary basis. MONUC will in no way attempt to forcibly disarm combatants;

(d) The disarmament, demobilization, repatriation, resettlement and reintegration process will also address the voluntary repatriation of both ex-combatants and their family members. It is essential that the countries in question provide guarantees that ex-combatants and their dependants will be able to return in conditions of safety and security. In this respect, the necessary confidence-building measures, including international monitoring and reintegration assistance, will have to be put in place. Consideration should also be given to members of "mixed families" (such as Rwandan ex-combatants who have Congolese wives);

(e) The question of ex-combatants who may not wish to return to their home countries must be addressed prior to the commencement of the disarmament, demobilization, repatriation, resettlement and reintegration exercise. MONUC and the Office of the United Nations High Commissioner for Refugees (UNHCR) will undertake further consultations with the parties, as well as with other Governments, on the identification of various durable solutions, including asylum in the Democratic Republic of the Congo and resettlement to third countries, for those people who qualify as refugees and are unwilling to return to their home countries;

(f) MONUC and UNHCR will seek to work with the Governments of the Democratic Republic of the Congo and Rwanda, as well as with other countries concerned, to ensure that those two Governments make available to the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other

Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994 any persons sought by the Tribunal;

(g) In areas not under the control of the Democratic Republic of the Congo Government, MONUC will provide "point security" for the disarmament and demobilization sites, but the local authorities will continue to be responsible for providing overall "umbrella security". In areas controlled by the Government of the Democratic Republic of the Congo, the Government will be expected to provide security at the disarmament and demobilization sites;

(h) A clear understanding should be reached with the Governments of the Democratic Republic of the Congo and Rwanda on their respective roles and responsibilities, as well as those of MONUC, UNHCR and other relevant United Nations agencies, with regard to disarmament, demobilization, repatriation, resettlement and reintegration of ex-combatants and associated tasks.

## **2. Envisaged disarmament, demobilization, repatriation, resettlement and reintegration arrangements**

35. In areas controlled by the Government of the Democratic Republic of the Congo, any ex-FAR or Interahamwe members identified as operating alongside the Congolese armed forces would remain in their formations until they were, as was the case in Kamina, disarmed by the Democratic Republic of the Congo Government, where they would be screened, demobilized and repatriated by MONUC. The Congolese armed forces would be responsible for maintaining security during the disarmament, demobilization, repatriation, resettlement and reintegration exercise. MONUC would not be required to provide protection, beyond guard units necessary to protect United Nations personnel and equipment. Accordingly, it will be possible for MONUC to proceed with the initial stages of disarmament, demobilization, repatriation, resettlement and reintegration within its current resources in the areas under Government control as soon as the ex-FAR/Interahamwe are identified.

36. In the east, disarmament, demobilization, repatriation, resettlement and reintegration will continue to present a major political, security and

logistical challenge. As noted in my previous reports, the situation in the eastern Democratic Republic of the Congo remains highly volatile. The general environment of hostility and the lack of law and order are likely to remain, even with a formal cessation of hostilities. In this light, it is proposed that the disarmament, demobilization, repatriation, resettlement and reintegration process in the east would initially commence in areas of relative security.

37. The proposed disarmament, demobilization, repatriation, resettlement and reintegration plan envisages that MONUC will simultaneously operate two to four mobile reception centres for disarmament, demobilization and reintegration at any given time. It is estimated that a total of 10 to 12 mobile reception centres could be created during the entire process. These centres would be set up by MONUC in partnership with UNHCR, the World Food Programme (WFP), the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF). In addition to the military presence of MONUC, including military observers, a multidisciplinary civilian team would also be attached to each centre.

38. Following consultations with United Nations agencies, it has been agreed in principle that UNHCR will assist in the reception and repatriation of ex-combatants' dependants, who will be accommodated at a separate camp. WFP will provide and distribute food, UNICEF will assist with the child soldiers and WHO will support the provision of medical services. MONUC and the United Nations agencies will also work in close partnership with non-governmental organizations that may assist the process. In this connection, specialized training in child protection and gender issues will be provided to civilians and military personnel who will be involved in the disarmament, demobilization, repatriation, resettlement and reintegration process.

39. According to preliminary estimates, it could take about two months to establish one mobile centre, two months to process the combatants and their dependants there and one month to disassemble the camp. The total caseload, including dependants, could be as high as 90,000. MONUC estimates that, with the assistance of its implementation partners, it could repatriate up to 200 people per day from each reception centre and that up to 7,000 people would be processed at each centre over a two-month period, depending on location and logistical conditions.

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40. The extensive use of the Mission's public information capacities will be essential in disseminating information on the disarmament, demobilization, repatriation, resettlement and reintegration process. MONUC will step up the use of Radio Okapi to broadcast information on Rwanda's policy on the issue of returning ex-combatants who have already been repatriated, in order to further encourage combatants to disarm and repatriate. In so doing, it will continue to broadcast from already established bases in Kindu and Kisangani and use its three mobile FM radio transmitters.

## **B. Overall framework for phase III activities**

41. As envisaged in the Pretoria Agreement, the third-party verification mechanism will verify the information provided by the parties on armed groups. Moreover, the verification mechanism will play a vital role in overcoming any potential stumbling blocks in the implementation of the Pretoria Agreement by making a final determination on the measures taken vis-à-vis the dismantling of armed groups. While MONUC is a separate entity, it is expected to serve as the main operational arm of the verification mechanism in regard to its verification tasks. Other bodies, such as the JMC, will be invited to participate in the activities of the verification mechanism, as appropriate, pursuant to the Pretoria Agreement.

42. The role of the third-party verification mechanism in verifying the cessation of support to armed groups will be particularly important, as this is understood to be an essential element of the "effective measures" aimed at dismantling the ex-FAR/Interahamwe. To assist in this endeavour, MONUC is expected to establish an observation presence at key points on the alleged supply routes, including at Ndjili airport and at Kamina and Lubumbashi airfields. The verification mechanism will also work with both the Democratic Republic of the Congo and Rwandan Governments to identify leaders of the ex-FAR/Interahamwe, with a view to establishing their whereabouts and handing them over to the International Criminal Tribunal for Rwanda (see also para. 34 (f) above).

43. The structure of MONUC — both civilian and military — would be adjusted in order to meet the challenges that the Mission will face in the coming

phase. A joint coordination committee for disarmament, demobilization, repatriation, resettlement and reintegration, of which the current disarmament, demobilization, repatriation, resettlement and reintegration division will form the core, would be set up directly under the responsibility of the Special Representative of the Secretary-General. The coordination committee would include the various components of MONUC and its principal partners — UNHCR, WFP, UNICEF, WHO, the Office for the Coordination of Humanitarian Affairs and the United Nations Development Programme.

44. Given the immense logistical challenges and the need for effective coordination with the multitude of players involved in the disarmament, demobilization, repatriation, resettlement and reintegration exercise, I intend to appoint to MONUC a second Deputy Special Representative to be responsible for operations and management, including all support aspects of the disarmament, demobilization, repatriation, resettlement and reintegration programme. My first Deputy Special Representative will, in addition to her other functions, retain responsibility for political guidance on disarmament, demobilization, repatriation, resettlement and reintegration. She will also, as noted in paragraph 9 above, be my senior representative in the third-party verification mechanism.

45. A forward Mission headquarters, to be directed by a senior civilian officer, will be established at Kisangani, in order to coordinate MONUC activities in the east and to spearhead disarmament, demobilization, repatriation, resettlement and reintegration in this region. The creation of such a forward Mission headquarters will enable MONUC to shift the "centre of gravity" of its activities gradually towards the eastern Democratic Republic of the Congo as the Mission embarks on its phase III activities.

46. In the meantime, MONUC offices in Kampala and Kigali will also be strengthened to support the work of the Mission, especially in the implementation of the Pretoria and Luanda Agreements, and to provide better political liaison and analysis of developments in Uganda and Rwanda. MONUC also expects to establish a field presence in Lubumbashi.

47. International monitoring of the returning ex-combatants and dependants in Rwanda is an essential confidence-building measure. It is envisaged that UNHCR will undertake its normal monitoring

functions in relation to returning refugees. At the same time, discussions are under way to identify the most effective way to monitor ex-combatants who are repatriated through “solidarity camps” before they are returned to their communities of origin. The experience in Kamina has demonstrated that confidence-building measures are necessary to ensure that ex-combatants can benefit from the security guarantees extended by the Rwandan Government.

### **Concept of operations**

48. In order to support the conduct of disarmament, demobilization, and repatriation of foreign armed groups in the Democratic Republic of the Congo, the military component of MONUC will need to be significantly strengthened by creating a forward force. The forward force will comprise two robust task forces, based in Kindu and Kisangani, as well as one reserve battalion, riverine units and specialized enabling units to enhance the Mission’s military logistics capacity.

49. Each task force will be an integrated (i.e., including command, combat and support elements) and flexible force of approximately 1,700 troops with in-built mobility, structured around a well-equipped infantry battalion. It will also be supported by integral utility (transport) aviation with a lift capability of 120 personnel, specialized logistics elements and two military engineer units, each with a limited demining and construction capability. Additionally, a single armed helicopter unit will be deployed in the east to support the forward force. While the two task forces will maintain their primary bases in Kindu and Kisangani, each one will have the capability to deploy forward up to three company groups to mobile disarmament and demobilization sites in the east.

50. The task forces will, inter alia, provide “point security” at disarmament and demobilization sites for the conduct of the disarmament, demobilization and reintegration process, support the engineering preparation of disarmament and demobilization sites, destroy weapons and munitions, and provide limited demining capability.

51. A force reserve battalion, provided by a single troop-contributing country, will comprise a headquarters and four infantry companies. This reserve battalion will be located at Kisangani and will provide flexibility and the ability to meet unexpected contingencies. It may also assist specialized civilian

and military teams with ad hoc disarmament, demobilization, repatriation, resettlement and reintegration operations carried out in the west of the country, as a prelude to the wider disarmament, demobilization, repatriation, resettlement and reintegration operation.

52. It is proposed that airfield services be provided by the military component, aimed at enabling MONUC to quickly expand its disarmament, demobilization and reintegration operations. These will include essential capabilities in areas such as meteorology, air traffic control, movement control and cargo-handling support that are necessary to ensure flexible, safe and reliable airfield operations.

53. The riverine units will be used to support the reopening of the Congo River for commercial traffic and the movement of United Nations transports, as well as to facilitate MONUC monitoring in the area south-east of Kisangani. Additional military observers are also envisaged to staff the military component of the forward Mission headquarters in Kisangani and to support broader phase III tasks, including by assisting in the screening of combatants in the disarmament, demobilization and reintegration exercise.

54. The current military deployment of MONUC comprises approximately 640 military observers and 3,600 troops. To undertake the tasks described above in the revised concept of operations, an additional 120 military observers and up to 4,340 troops will be necessary, bringing the total authorized strength to 8,700 military personnel. The overall troop requirement will be kept under close review, especially with regard to tasks undertaken under the earlier phase II deployment. As discussed in paragraph 48 above, the new military requirements for the Mission include essential military logistics capabilities. It should be noted, however, that in the past it has been extremely difficult for the United Nations to obtain such troops from Member States. If they are not made available, specialized civilian contracts will have to be sought. Such contracts are usually very costly and may be very slow to materialize.

### **C. Withdrawal of foreign troops**

55. MONUC will continue to monitor the withdrawal of foreign troops from the Democratic Republic of the Congo, which remains a key element of an overall

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settlement. The Mission has observed the recent withdrawal of Ugandan troops from Beni and Gbadolite and is also currently monitoring the redeployment of Zimbabwean troops to assembly areas, in preparation for their withdrawal from Democratic Republic of the Congo territory. MONUC has recently observed the repatriation of a number of Zimbabwe Defence Forces troops from the area of Mbandaka and Mbuji-Mayi. A MONUC military liaison officer is present in Zimbabwe to monitor the arrival of withdrawing Zimbabwean troops in the country.

56. MONUC will also be prepared to monitor the withdrawal of Rwandan troops, the largest foreign military presence in the Democratic Republic of the Congo, in accordance with Security Council resolution 1304 (2000) and subsequent resolutions. It is hoped that the third-party verification mechanism will be able to assist in this process. In the meantime, the initial withdrawal plan provided by the Rwandan Government lacks some specific information that is required, including information on the numbers, equipment and locations of the Rwandan Patriotic Army (RPA) units in the Democratic Republic of the Congo, as well as their exit routes. A timetable for the withdrawal of Rwandan troops should also be developed and promptly submitted to the third-party verification mechanism. Once the necessary information is made available, MONUC will develop its own plan to monitor the withdrawal of the RPA troops from the Democratic Republic of the Congo.

#### **D. Restoring security in the north-east**

57. The currently explosive situation in Bunia calls for intensified efforts by the parties and the international community to defuse the tension and to urgently inject a sense of normalcy. It is envisaged that the response of MONUC will be twofold: promoting accountability from the de facto authorities and launching measures to build confidence between the communities.

58. Given the prevailing volatile environment, security responsibilities should continue to be discharged by UPDF, in an impartial manner, until such time as it can be replaced by a capable police force representing a legitimate authority acceptable to the communities in Ituri. In due course, once an agreement on the installation of a new administration in Ituri is reached, further consideration could be given to

MONUC providing police training and monitoring assistance in this region. It is also important that external players refrain from exploiting the precarious situation in Ituri.

59. In view of the pervasive fear and mistrust that characterize relations between the Lendu and the Hema, it is essential that a dialogue between the two groups, as well as with the wider community of Ituri be initiated and maintained. In the past, the organization of forums and round tables involving community leaders and traditional chiefs has helped defuse tensions. However, the lack of follow-up or the non-implementation of agreed measures has impeded the furtherance of reconciliation efforts.

60. Pursuant to the Luanda Agreement, the Governments of the Democratic Republic of the Congo and Uganda are envisaged to establish a Joint Pacification Committee on Ituri (see para. 16 above). MONUC will work with the two Governments and with key personalities on the ground on the proposed initiative, with a view to assisting them in the search for a solution to the troubling situation in Ituri.

61. In the meantime, MONUC intends to increase its presence in Bunia, with a senior political adviser leading the team there. The team will collect and analyse information on trends that are likely to have an effect on the security environment. To this end, MONUC has already strengthened its office in the area by dispatching a political officer, a civil affairs officer and a humanitarian officer to Bunia. However, sustaining a large MONUC civilian presence in Ituri requires that all concerned urgently address the security situation.

62. An important factor contributing to the highly volatile environment in Ituri is the lack of access to objective and impartial information, making the population susceptible to manipulation and, sometimes, incitement by those who want to destabilize the situation. MONUC will do its best to intensify its public information efforts in Bunia, and has already made arrangements to install a Radio Okapi transmitter there.

63. It is widely felt that a small number of leaders are responsible for deliberately creating a confused situation in the Ituri region, pitting one community against another, to further their own interests. In order to end the cycle of violence in an environment of

impunity, these leaders should be held accountable for their actions.

### **E. Civilian police aspects**

64. It will be recalled that the idea of establishing a civilian police component in MONUC was first broached in my eighth report on MONUC (S/2001/572), in the context of assisting local authorities to enhance their capacity to maintain law and order in areas from which foreign forces would withdraw and disarmament, demobilization, repatriation, resettlement and reintegration would take place. Under resolution 1355 (2001) of 15 June 2001, the Security Council approved the establishment of a civilian police component in MONUC to conduct an in-depth assessment of policing institutions, needs and capabilities, and ultimately to prepare recommendations for an eventually expanded MONUC civilian police component. The task of the civilian police component was to advise and assist the local authorities in the discharge of their responsibilities to ensure the security of the local population, particularly in regard to the internal security situation following the withdrawal of the foreign forces.

65. With the signing of the Pretoria and Luanda Agreements, MONUC has been considering in more concrete terms the type of assistance the Mission could provide in areas from which RPA and UPDF troops would withdraw. As the situation in these areas becomes clearer in the coming months, I intend to return to the Security Council with recommendations regarding the assistance MONUC could provide in relation to capacity-building for local internal security mechanisms — including broader law and order issues, such as human rights and the judiciary.

### **V. Observations and recommendations**

66. The signing of two separate bilateral Agreements between the Government of the Democratic Republic of the Congo and the Governments of Rwanda and Uganda is an extremely important development in the Democratic Republic of the Congo peace process, and could be a major step forward in the continuing efforts to end a long-standing conflict. The highly commendable initiatives of the Governments of South Africa and Angola to introduce a new dynamic in the

Democratic Republic of the Congo peace process deserve our strong support. It is important that the parties on the ground now demonstrate their full commitment to these Agreements through concrete and decisive steps.

67. In this connection, the reports of intensified military activities in the east are a source of major concern. I call on the parties to do everything possible to achieve an immediate ceasefire and to end all support to the armed groups, as a sign of good will. I also call on all concerned — in particular RCD-National, supported by MLC, and RCD-K/ML — to cease all military activities in the north-east. The gap that still exists between the increasingly positive diplomatic efforts and the deteriorating situation on the ground must not be allowed to widen.

68. I am particularly concerned about the security conditions in the Ituri region. The tensions between the local communities have been aggravated by the dynamics affecting the larger Democratic Republic of the Congo conflict. I call on all concerned not to take any action that might exacerbate existing tensions. The developments in Ituri underscore the pressing need to arrive at an all-inclusive agreement on a transitional Government that could promptly extend its authority effectively throughout the territory of the Democratic Republic of the Congo.

69. In the framework of the Luanda Agreement, I urge the Governments of the Democratic Republic of the Congo and Uganda to continue their consultations, with a view to addressing the troubling situation in Ituri and, in particular, ensuring that there is no security vacuum in the region. In this connection, their decision to establish a Joint Pacification Committee on Ituri is a welcome development.

70. The efforts of humanitarian agencies to meet the vast needs in that region and elsewhere in the Democratic Republic of the Congo are vital. Humanitarian agencies have recently established a task force on the situation in Ituri in order to closely monitor developments and to coordinate an effective response. However, the needs are overwhelming and cannot be met with current resources alone. I strongly appeal to donors to provide generous funding to the humanitarian agencies operating in the area. Their work also requires adequate security arrangements, and all parties in the Ituri region are urged to allow the



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humanitarian agencies full and complete access to all those in need.

71. The Pretoria and Luanda Agreements have laid a foundation for building a lasting peace in the Democratic Republic of the Congo. They address the main aspects of the conflict by providing a framework for the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups and for the orderly withdrawal of all foreign troops. The repatriation of UPDF from Beni and Gbadolite, which paves the way for Uganda's total withdrawal from Democratic Republic of the Congo territory, is an important step forward. While Zimbabwe is not a party to the Pretoria Agreement or the Luanda Agreement, the recent announcement of its intention to repatriate its troops from the Democratic Republic of the Congo is also a welcome step. I call on the Government of Zimbabwe to work closely with MONUC to ensure that its withdrawal is conducted in a transparent and orderly manner. Rwanda should also demonstrate its willingness to withdraw its troops from the Democratic Republic of the Congo, in accordance with relevant Security Council resolutions.

72. There should be no doubt that the ability of MONUC to implement its revised concept of operations will depend on the full cooperation of the parties, which includes the provision of all necessary information; a full cessation of hostilities throughout the territory of the Democratic Republic of the Congo, in particular of the fighting between the non-signatories to the Lusaka Agreement and the Rwandan/RCD-Goma forces; the cessation of support from the Government of the Democratic Republic of the Congo and its allies for ex-FAR/Interahamwe and other armed groups; and the parties' provision of security, access and freedom of movement to MONUC.

73. It is my sincere hope that the obstacles that have impeded the implementation of the Lusaka Ceasefire Agreement in the past will be overcome through the third-party verification mechanism. MONUC will extend its fullest cooperation to the verification mechanism, and will report on the possible financial implications.

74. The effective conduct of disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups will be imperative for the settling of the Democratic Republic of the Congo conflict. On the basis of lessons learned

in similar situations, the delays usually caused by a shortage of funds provided on a voluntary basis must be avoided. The international community cannot afford to miss the opportunity offered by the Pretoria Agreement to disarm, demobilize and repatriate foreign armed groups — a goal that has been pursued for several years now. It is therefore recommended that the costs of disarmament, demobilization and repatriation of members of armed groups be borne under the assessed budget. At the same time, I intend to do everything possible to encourage donors to mobilize funds for this process on a voluntary basis, with a view to reimbursing the assessed budget allocations. In addition, any costs related to reintegration would continue to be funded through voluntary contributions to Governments and agencies concerned. I call on the international community to support these efforts generously, particularly through assistance to the communities where the ex-combatants will resettle.

75. In this context, I would also like to recommend an extension of quick-impact project funding for MONUC, which is absolutely essential as the Mission enters a new phase of its mandate and expands its deployment and visibility. Such projects, while representing a very small percentage of the Mission's overall budget, can go a long way in helping the Mission to provide tangible benefits to the communities where it is deployed and in winning the support of the local population.

76. While it is clear that the implementation of the Agreements will depend primarily on the political will and determination of the parties to abide by their commitments, much remains to be done by the international community in assisting the parties to implement their undertakings. In this regard, an adjustment and reconfiguration of the MONUC structure and deployment has been carefully considered in order to determine how the Mission can most effectively play its role in support of the peace process. Consequently, it is proposed that MONUC shift the emphasis of its activity eastward, enhance its disarmament, demobilization, repatriation, resettlement and reintegration capacity and strengthen its presence considerably, essentially through the deployment of two task forces, as outlined in paragraphs 48 to 54 above.

77. Accordingly, I recommend that the authorized military strength of MONUC be increased up to 8,700 all ranks, bearing in mind that the troop level will be

kept under constant review as the process unfolds. In anticipation of a Security Council decision and in order to ensure an expeditious response by the United Nations, I have instructed the Department of Peacekeeping Operations to step up its efforts to consult potential troop contributors. In this connection, I particularly appeal to countries that have the capability to provide specialized military units, such as military aviation units, airfield services and engineers, to contribute to MONUC.

78. I strongly urge the Congolese parties to reach an all-inclusive agreement on a new political dispensation in the Democratic Republic of the Congo as soon as possible. My Special Envoy, Mr. Niasse, will continue to work closely with the Congolese leaders to reach this very important goal. Any delay in achieving such a political settlement could undermine the recent momentum created by the Pretoria and Luanda Agreements.

79. As noted in the Pretoria Agreement, the resolution of the Democratic Republic of the Congo conflict is a process, not an event. Therefore, the signing of the recent Agreements — while an important step towards peace — is only the beginning of a process, the progress of which will depend, first, on the commitment of the parties and, second, on the decisive support that the international community will be willing to provide.

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**ANNEX 3.3**

**Human Rights Watch, *The Curse of Gold. Democratic Republic of Congo, 2005***

**(Excerpts)**

# **The Curse of Gold**

## **Democratic Republic of Congo**

**Human Rights Watch**

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## The Curse of Gold

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*This report was written in English and translated into French. If there are any inconsistencies between the French and English versions of this document, the English version will govern. This report was correct as at April 26, 2005.*

## I. Summary

*“We are cursed because of our gold. All we do is suffer. There is no benefit to us.”*

Congolese gold miner

The northeast corner of the Democratic Republic of Congo (DRC) is home to one of Africa’s richest goldfields. Competition to control the gold mines and trading routes has spurred the bloody conflict that has gripped this area since the start of the Congolese war in 1998 and continues to the present. Soldiers and armed group leaders, seeing control of the gold mines as a way to money, guns, and power, have fought each other ruthlessly, often targeting civilians in the process. Combatants under their command carried out widespread ethnic slaughter, executions, torture, rape and arbitrary arrest, all grave human rights abuses and violations of international humanitarian law. More than sixty thousand people have died due to direct violence in this part of Congo alone. Rather than bringing prosperity to the people of northeastern Congo, gold has been a curse to those who have the misfortune to live there.

This report documents human rights abuses linked to efforts to control two key gold mining areas, Mongbwalu (Ituri District) and Durba (Haut Uélé District), both bordering Uganda.

When Uganda, a major belligerent in the war, occupied northeastern Congo from 1998 to 2003, its soldiers took direct control of gold-rich areas and coerced gold miners to extract the gold for their benefit. They beat and arbitrarily arrested those who resisted their orders. Ignoring the rules of war for the conduct of occupying armies, they helped themselves to an estimated one ton of Congolese gold valued at over \$9 million. Their irresponsible mining practices led to the collapse of one of the most important mines in the area in 1999, the Gorumbwa mine, killing some one hundred people trapped inside and destroying a major livelihood for the residents of the area.

The Ugandan army withdrew from Congo in 2003, following Rwanda, another major belligerent, which had withdrawn the year before. Each left behind local proxies, the Lendu Nationalist and Integrationist Front (*Front des Nationalistes et Intégrationnistes, FNI*) linked to Uganda, and the Hema Union of Congolese Patriots (*Union des Patriotes Congolais, UPC*), supported by Rwanda. With continued assistance from their external backers, these local armed groups in turn fought for the control of gold-mining areas and trade routes. As each group won a gold-rich area, they promptly began exploiting

the ore. The FNI and the UPC fought five battles in a struggle to control Mongbwalu, each resulting in widespread human rights abuses. Human Rights Watch researchers documented the slaughter of at least two thousand civilians in the Mongbwalu area alone between June 2002 and September 2004. Tens of thousands of civilians were forced to flee from their homes into the forests to escape their attackers. Many of them did not survive.

In 2003, peace talks at the national level culminated in the installation of a transitional government, but northeastern Congo remained volatile and beyond central government control. Multinational corporations nonetheless sought to sign new deals or revitalize old ones to start gold mining and exploration operations in the rich gold concessions in the northeast. One of these companies, AngloGold Ashanti, one of the largest gold producers in the world, started exploration activities in the Mongbwalu gold mining area. Following earlier attempts to make contact with the UPC armed group, AngloGold Ashanti representatives established relations with the FNI, an armed group responsible for serious human rights abuses including war crimes and crimes against humanity, and who controlled the Mongbwalu area. In return for FNI assurances of security for its operations and staff, AngloGold Ashanti provided logistical and financial support – that in turn resulted in political benefits – to the armed group and its leaders. The company knew, or should have known, that the FNI armed group had committed grave human rights abuses against civilians and was not a party to the transitional government.

As a company with public commitments to corporate social responsibility, AngloGold Ashanti should have ensured their operations complied with those commitments and did not adversely affect human rights. They do not appear to have done so. Business considerations came above respect for human rights. In its gold exploration activities in Mongbwalu, AngloGold Ashanti failed to uphold its own business principles on human rights considerations and failed to follow international business norms governing the behavior of companies internationally. Human Rights Watch has been unable to identify effective steps taken by the company to ensure that their activities did not negatively impact on human rights.

In other small-scale mining operations conducted throughout the duration of the conflict, armed groups and their business allies used the proceeds from the sale of gold to support their military activities. Working outside of legal channels, a network of traders funnelled gold mined by artisanal miners and forced labour out of the Congo to Uganda. In return for their services some traders counted on the support of combatants from the armed groups who threatened, detained, and even murdered their commercial rivals or those suspected of failing to honor business deals. These traders sold the ore to



gold exporters based in Uganda who then sold to the global gold market, a practice that continues today.

In 2003, an estimated \$60 million worth of Congolese gold was exported from Uganda, much of it destined for Switzerland. One of the companies buying gold from Uganda is Metalor Technologies, a leading Swiss refinery. The chain of Congolese middlemen, Ugandan traders, and multinational corporations forms an important funding network for armed groups operating in northeastern Congo. Metalor knew, or should have known, that gold bought from its suppliers in Uganda came from a conflict zone in northeastern DRC where human rights were abused on a systematic basis. The company should have considered whether its own role in buying gold resources from its suppliers in Uganda was compatible with provisions on human rights and it should have actively checked its supply chain to verify that acceptable ethical standards were maintained. Through purchases of gold made from Uganda, Metalor Technologies may have contributed indirectly to providing a revenue stream for armed groups that carry out widespread human rights abuses.

The international community has failed to effectively tackle the link between resource exploitation and conflict in the Congo. Following three years of investigation into this link, a United Nations (U.N.) panel of experts stated that the withdrawal of foreign armies from Congo was unlikely to stop the cycle of conflict and exploitation of resources. But the U.N. Security Council established no mechanism to follow up on the recommendations of the panel. The trade in gold is just one example of a wider trend of competition for resources and resulting human rights abuses taking place in mineral rich areas throughout the Congo. The link between conflict and resource exploitation raises broader questions of corporate accountability in the developing world. Given the troubling allegations described in the U.N. panel of experts reports and in this report, it is imperative that further steps be taken to deal with the issue of natural resources and conflict in the Congo and beyond.

In preparation for this report, Human Rights Watch researchers interviewed over 150 individuals including victims, witnesses, gold miners, gold traders, gold exporters, customs officials, armed group leaders, government representatives, and officials of international financial institutions in Congo, Uganda and Europe in 2004 and 2005. Human Rights Watch researchers also met with and engaged in written correspondence with representatives from AngloGold Ashanti and Metalor Technologies to discuss concerns.

We wish to thank our Congolese colleagues in Justice Plus, and other individuals who cannot be named for security reasons, for their assistance and support in our research. They risk their lives to defend the rights of others and are to be commended for their courage and commitment.

#### IV. Background: Enriching the Elites

Gold, one of the richest resources in the Congo, offers the potential to contribute to financial reconstruction after a war that has cost millions of lives and has left countless others in desperate poverty. But in recent years it has enriched only a fortunate few, many of whom have won control over the gold by use of force. Gold has contributed little to the overall prosperity of the nation; on the contrary it has been a curse to those who have the misfortune to live in regions where it is found.

In 1996 Rwandan and Ugandan forces invaded the Congo, ousted long-time ruler Mobutu Sese Seko, and installed Laurent Desiré Kabila in power. In July 1998 Kabila tried to expel the Rwandan troops, but they and the Ugandan forces instead engaged Kabila's government in the second Congo war, one that eventually drew in Zimbabwe, Angola, Namibia (supporting Kabila) and Burundi (allied with the Rwandans and Ugandans). Often termed as Africa's first world war, the conflict resulted in the deaths of 3.5 million people, the great majority in eastern DRC. Many victims were displaced people who died from exposure, hunger, or lack of medical assistance.<sup>1</sup> A first peace agreement, signed in Lusaka in 1999, had little effect but the U.N. agreed to establish a peacekeeping force known as the U.N. Organization Mission in the Democratic Republic of Congo (MONUC) in November 1999. Through continued international pressure, the national government and major rebel movements eventually signed a power-sharing agreement at Sun City in April 2002 that allowed for the establishment of the Global and All Inclusive Peace Agreement which set up the transitional government in June 2003. Despite this agreement and other bilateral and regional security agreements, insecurity continued in large parts of eastern Congo.

The war in northeastern Congo, specifically in Ituri, sprang from the larger Congo war, and became a complex web of local, national, and regional conflicts. It developed after a local land dispute in 1999 between Hema and Lendu ethnic groups was exacerbated by the Ugandan army who occupied the area and by national rebel groups keen on expanding their power base. The availability of political and military support from external actors, notably Uganda and Rwanda, plus growing extremists' sentiments, encouraged local leaders in Ituri to form more structured movements. Armed groups were born, generally based on ethnic loyalties, including the predominately northern

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<sup>1</sup> International Rescue Committee and Burnet Institute, *Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey*, December 2004.

Hema group the UPC<sup>2</sup>, the predominately Lendu FNI<sup>3</sup>, the southern Hema group PUSIC and the more mixed FAPC.<sup>4</sup> Each of these groups received military and political support from either the DRC<sup>5</sup>, Ugandan or Rwandan governments at different times turning Ituri into a battleground for the war between them.<sup>6</sup>

Between 2002 and 2004 these Ituri armed groups attempted to gain recognition on the national scene, hoping for positions in the Kinshasa based transitional government and in the newly integrated army. In this scramble, local militia leaders frequently switched alliances between themselves and other backers as their interests dictated. They attempted to control huge swathes of territory and strategic sites, including gold mines and lucrative customs posts, in order to enhance the importance of their movement. The strategic sites also provided much needed finance for the armed groups and favor with their backers. A U.N. special report on the events in Ituri published in July 2004 underlined that the competition for control of natural resources, particularly gold, by these armed groups was a major factor in prolonging the crisis in Ituri.<sup>7</sup>

### ***The Significance of Gold***

Gold was first discovered in the Agola River in northeastern Congo in 1903 by two Australian prospectors. They named the area after the local chief Kilo<sup>8</sup> and shortly thereafter made a similar discovery in the Moto River just to the north, from which the name Kilo-Moto derives. Exploitation of the gold started in 1905 and continued on an increased scale. During the first half of the twentieth century, colonial entrepreneurs exploited gold through private companies that introduced large-scale or industrial mining. After independence in 1960, the state nationalized many of these companies, including, in 1966, the Société des Mines d'Or de Kilo-Moto (SOKIMO) that worked the lodes of northeastern Congo. It granted the large SOKIMO concession in Ituri and Haut Uélé Districts of Orientale Province to a new state-owned Office of the Gold Mines of Kilo-Moto (OKIMO). To date, OKIMO officials estimate that more than 400

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<sup>2</sup> The northern Hema group is often referred to as Gegere, a sub-clan of the Hema.

<sup>3</sup> This included temporarily the southern Lendu group known as the Ngiti, who had formed the FRPI militia.

<sup>4</sup> Another group, the Popular Forces for the Democracy of Congo (FPDC) was also born but it has played only a minor role. PUSIC has not been active in the gold mining areas of Mongbwalu and Durba and so goes largely unmentioned in this report.

<sup>5</sup> Assistance was received from the pre-transition Kinshasa government before mid-2003, though support allegedly continued from certain components of the transitional government after mid-2003.

<sup>6</sup> Human Rights Watch, "Ituri: 'Covered in Blood' – Ethnically Targeted Violence in North-eastern DRC", *A Short Report*, July 2003.

<sup>7</sup> Letter from the U.N. Secretary General to the President of the Security Council, "Special Report on the Events in Ituri January 2002 – December 2003", July 16 2004, p. 5.

<sup>8</sup> The local chief was actually called Krilo, but the Australians mistook the name for Kilo.

tons of gold have been extracted from their concession and that much more remains, though there is no precise estimate of how much.<sup>9</sup> Many industry experts agree that the OKIMO concession is one of the most exciting, and potentially the largest, unexplored gold reserve in Africa.<sup>10</sup> In the early 1990s OKIMO entered into arrangements with multinational corporations to exploit the large mines of northeastern Congo using industrial methods (discussed below) and also licensed local miners to work other areas by artisanal methods.

In 2000, the U. N. Security Council expressed concern that Congo's natural resources such as gold, diamonds and other minerals were fuelling the deadly war. They appointed a panel of experts<sup>11</sup> to look into the matter who published four separate reports between April 2001 and October 2003.<sup>12</sup> In these series of reports, the U.N. panel of experts reported that Rwandan, Ugandan, and Zimbabwean army officers as well as members of the Congolese elite were growing rich from the wealth of the Congo. They showed how extraction of these resources helped fund armed groups, thus fueling the war. They further documented how the minerals of the Congo were fed into the networks of international commerce. The panel concluded in its report of October 2002 that the withdrawal of foreign armies would not end the resource exploitation because the elites had created a self-financing war economy.<sup>13</sup>

In 2002, following heavy international pressure, in part because of the U.N. panel reports, both the Rwandan and Ugandan governments agreed to withdraw their soldiers from Congo. Uganda subsequently arranged with the Congolese government to keep some forces in northeastern Congo until 2003 when the last of their troops withdrew.

This report, focused on control of gold in northeastern Congo, shows that the pattern of exploitation of natural resources described by the U.N. panel of experts, does indeed continue as of this writing, resulting in widespread abuses of human rights. The trade in gold is just one example of a wider trend of competition for resources and resulting human rights abuses taking place in mineral rich areas throughout the Congo.

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<sup>9</sup> Pasteur Cosma Wilingula Balongelwa, General Director of OKIMO, "Written Presentation on OKIMO", Kinshasa, January 31, 2004.

<sup>10</sup> Human Rights Watch interviews, gold industry experts, Bunia, Kampala, London, February – May 2004. Industry experts use the term 'ore body' instead of the lay term gold reserve.

<sup>11</sup> Known as the U.N. Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo; hereafter the U.N. panel of experts.

<sup>12</sup> See reports from the U.N. Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, April 12, 2001 (S/2001/357), May 22, 2002 (S/2002/565), October 16, 2002 (S/2002/1146), October 23, 2003 (S/2003/1027) plus other addendums.

<sup>13</sup> *Ibid.*, U.N. panel report (S/2002/1146), October 16, 2002.



Gold miners working in an open pit mine in Durba. © 2004 Marcus Bleasdale

### ***Ugandan Forces Plunder the Gold of Haut Uélé District, 1998-2002***

In August 1998, shortly after the start of the second Congolese war, Ugandan troops occupied gold-rich areas of Haut Uélé, including the town of Durba, (Watsa Territory, Haut Uélé District, Orientale Province), site of three important gold mines: Gorumbwa, Durba and Agbarabo. According to estimates of engineers and geologists familiar with the area, nearly one ton of gold was extracted from this region during the four-year period of Ugandan occupation.<sup>14</sup> Based on prices at the time, this would have been valued at some \$9 million dollars.

Ugandan troops were supporting the advance of their Congolese allies, the rebel Rally for Congolese Democracy (Rassemblement Congolais pour la Démocratie, RCD) and the Congolese Liberation Movement (Mouvement pour la Libération du Congo, MLC), but according to local observers, the Ugandans took Durba primarily for the wealth it offered. Within weeks of the second war, the Rwandan and Ugandan backed RCD rebel forces quickly announced their “control over the OKIMO mines” and in a written decision prohibited any illicit mining stating that the RCD was going to “economically

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<sup>14</sup> Human Rights Watch interview, OKIMO engineers and geologists, Durba, May 13, 2004. Estimates were based on regular observation and monitoring.

reorganize the territory under its control.”<sup>15</sup> One witness in Durba who witnessed the Ugandan army enter said, “The Ugandans were only here for the gold. . . There was no military reason [to be here] and they never fought any battles here.”<sup>16</sup> Officials of the state-owned gold mining agency OKIMO had been left in charge of the Durba mines after the flight of the expatriate staff of the Barrick Gold Corporation, a mining company which held a concession from OKIMO. A former OKIMO employee present when the Ugandans arrived said, “We understood that they came to our area only for economic interests. The moment they arrived they were more interested in OKIMO than anything else.”<sup>17</sup>

In the early days of the occupation, Ugandan soldiers, including a Ugandan officer called Major Sonko, came by helicopter to try to start gold production.<sup>18</sup> Finding it too difficult and costly to operate the mines on an industrial scale, they decided to use artisanal miners, (*orpailleurs*), although Congolese mining regulations prohibited such miners from working in industrial mines and restricted them to smaller-scale holdings. According to one former OKIMO employee, the decision to get gold immediately and cheaply by using artisanal miners led to the reckless mining practices that would destroy Gorumbwa mine, the most important in the area.<sup>19</sup>

Local sources said that Ugandan Lieutenant David Okumu gave the initial order to start mining in Gorumbwa.<sup>20</sup> According to a report prepared by OKIMO officials that provides further details, Ugandan soldiers took over mine security, chasing away OKIMO guards and the local police in order to benefit from the gold mining.<sup>21</sup> Local miners went to work in the mines, even though they were required to pay an entrance fee to Ugandan soldiers or to give them a portion of their ore when leaving. Witnesses reported that Ugandan soldiers beat local miners who refused to work under these conditions or who failed to deliver the expected amount of gold.<sup>22</sup> To speed extraction of the ore, Ugandan soldiers directed miners to use explosives taken from OKIMO

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<sup>15</sup> Rassemblement Congolais Pour La Démocratie (RCD), Cabinet du Coordinateur, Décision No. 004/RCD/CD/LB/98, Goma, October 28, 1998.

<sup>16</sup> Human Rights Watch interview, Durba, May 11, 2004.

<sup>17</sup> Human Rights Watch interview, OKIMO employee, Durba, May 13, 2004.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Human Rights Watch interviews, Congolese miners and other sources, Durba and Watsa, May 10 - 13, 2004.

<sup>21</sup> OKIMO Internal Memorandum to General Management, “La sécurité au Groupe d’Exploitation Moto”, March 17, 2000. Further details also provided in internal OKIMO memos of September 9, 1999 and May 29, 2000. Documents on file at Human Rights Watch. See also, William Wallis, “Warlords and Adventurers in Scrambles for Riches,” *Financial Times*, July 15, 2003.

<sup>22</sup> Human Rights Watch interview, Durba, May 13, 2004.

stocks. Local residents said that there were more than fifty explosions in the mines during the month of December 1999, some of them severe enough to shake nearby housing. Even the rock pillars that supported the roof in the mine were blasted to extract any ore that might be inside them.<sup>23</sup>

On several occasions OKIMO officials protested to Ugandan army commanders about the illegal mining, the theft of fuel and explosives from their stock, and the possible damage to the mines through the explosions.<sup>24</sup> Ugandan soldiers beat, arrested, and threatened some of those who protested. Lieutenant Okumu arrested the local OKIMO Director Samduo Tango and had him publicly beaten. A witness at the scene of the beating said,

[Samduo Tango] was arrested and taken to “Les Bruns” [a house in the OKIMO concession] by Commander Okumu and he was beaten. He was protesting against how the Ugandans were doing things. It happened a few months after the Ugandans arrived. They also beat other workers who were against them. Samduo had to pay to be released and then he fled. Another person who was beaten was Aveto as he witnessed the Ugandans taking dynamite from the warehouse. He was arrested along with Samduo and also publicly beaten. Commander Okumu beat them himself and he asked other soldiers to also beat them. I saw this myself.<sup>25</sup>

Another OKIMO official told a Human Rights Watch researcher,

I had many meetings with [Commander Okumu] to make him understand that they must not destroy the mine. But these meetings only put us more at risk. I myself was threatened because of all this. One time I was taken to their military camp for questioning.<sup>26</sup>

Lt Okumu left the Durba area in early 1999 but other Ugandan commanders continued with similar practices and took no actions to stop the illegal mining. In June 1999 OKIMO officials reported again on the situation and asked Commander Sula based in

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<sup>23</sup> Ibid., OKIMO Internal Memorandum, March 17, 2000, Also Human Rights Watch interview, OKIMO engineer, Durba, May 13, 2004.

<sup>24</sup> Ibid., OKIMO Internal Memorandum, March 17, 2000.

<sup>25</sup> Human Rights Watch interview, Durba, May 13, 2004.

<sup>26</sup> Human Rights Watch interview, OKIMO employee, Durba, May 13, 2004.



Isiro to intervene. He ignored the request and soon after the Durba-based Ugandan officer Freddy Ziwa arrested one of the OKIMO officials.<sup>27</sup> According to an internal OKIMO memorandum, Commander Sula met with local miners and Ugandan soldiers on July 12, 1999 in Durba and ordered them to organize more extensive mining in the OKIMO concession. On July 29, 1999 artisanal miners and Ugandan soldiers began work in the second largest mine in the area, the Durba mine.<sup>28</sup> The miners were reportedly transported to work in army vehicles.<sup>29</sup>

In December 1999, OKIMO officials met with two other Ugandan army officers heavily involved in the mining, Commanders Bob and Peter Kashilingi. They sought an end to the mining and warned again that Gorumbwa mine might collapse if the practice of blasting the supporting pillars continued. According to OKIMO officials, no action was taken by Ugandan commanders.<sup>30</sup>

In late 1999 the Gorumbwa mine collapsed killing a reported one hundred miners trapped inside and flooding the area.<sup>31</sup> According to one local engineer:

The Ugandan army were responsible for the destruction of Gorumbwa mine. They started to mine the pillars. It was disorderly and very widespread. People were killed when the mine eventually collapsed. It was not their country so they didn't care about the destruction. They kept promising to help stabilise the mine, but they never did.<sup>32</sup>

Another engineer thrown out of work by the collapse of the mine explained, "Gorumbwa mine was the most important. It was ruined by the Ugandans and this has halted development here. It has caused social degradation."<sup>33</sup>

In December 1998, an epidemic of Marburg hemorrhagic fever killed more than fifty people in Durba, the majority of them miners. The outbreak was believed to have

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<sup>27</sup> Ibid., OKIMO Internal Memorandum March 17, 2000.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Human Rights Watch interview, Durba, May 13, 2004. See also OKIMO Internal Memorandum, March 17, 2000.

<sup>31</sup> Wallis, "Warlords and Adventurers in Scrambles for Riches".

<sup>32</sup> Human Rights Watch interview, engineer, Durba, May 13, 2004.

<sup>33</sup> Human Rights Watch interview, former engineer, Durba, May 11, 2004.

begun in Gorumbwa mine.<sup>34</sup> According to a team of medical experts sent to the area by the U.N. several months later, the unhealthy conditions in the Gorumbwa mine increased the risk of workers contracting this fever.<sup>35</sup>

Ugandan soldiers had no authority to extract gold from mines in the Durba area. Possibly aware of the illegal nature of their exploitation, they sought once in May 1999 to create a semblance of legitimacy for their activities. Working through their local Congolese proxy the RCD, the local Congolese Brigade Commander, Mbanga Buloba, held a meeting questioning OKIMO's legal title to the mining rights in the area and claiming it was the new rebel administration who were entitled to manage the artisanal gold exploitation. The effort, described in a memorandum by OKIMO officials, came to nothing.<sup>36</sup>

Nor did Ugandan soldiers have any military imperative to exploit or destroy the gold mines in the Durba area. As an occupying power they were responsible under international law for protecting civilian and non-military state assets, including mines, and had an obligation to properly maintain them. Their systematic and abusive exploitation of the gold mines represented an immediate loss to state assets and their destruction of the infrastructure and damage to the Gorumbwa mine decreased the value of the state assets for future use, all in violation of international law.<sup>37</sup>

In 2001 the U.N Panel of Experts on Illegal Exploitation in the DRC reported on the involvement of Ugandan officers in mining activities in Durba.<sup>38</sup> Their reports were followed-up in 2002 by the Ugandan government appointed judicial commission of inquiry led by Justice David Porter, commonly known as the Porter Commission, who were instructed to respond to the allegations made by the panel.<sup>39</sup> The Porter Commission interviewed various Ugandan officers about their involvement in illegal gold mining in Durba including Lt Okumu, Major Sonko and Lt Col Mugeny amongst

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<sup>34</sup> Human Rights Watch interview, Watsa, May 12, 2004. There have been previous outbreaks of Marburg fever in the area in 1992, 1994 and 1997. See also medical papers by Dr Matthias Borchert.

<sup>35</sup> Office for the Coordination of Humanitarian Affairs, "Rapport de mission du Conseiller Humanitaire: Epidémie de Fièvre hémorragique de Durba/Province Orientale," May 1999. Also Human Rights Watch interview, medical professional, Watsa, May 13, 2004.

<sup>36</sup> *Ibid.*, OKIMO Internal Memorandum March 17, 2000.

<sup>37</sup> Article 55 of the Hague Regulations (Convention IV) respecting the Laws and Customs of War on Land and its annex: Regulations Concerning the Laws and Customs of War on Land, The Hague, October 18, 1907.

<sup>38</sup> U.N. Panel of Experts, Report (S/2001/357), April 12, 2001, p. 11.

<sup>39</sup> "Final Report of the Judicial Commission of Inquiry into Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo 2001 (May 2001 – November 2002)", November 2002. Hereafter, this will be referred to as the "Porter Commission report".

others. All of them denied any involvement in such activities. The Porter Commission found the officers were lying and declared there had been “a cover-up” inside the UPDF to hide the extent of such activities.<sup>40</sup>

Despite the findings of the Porter Commission, no arrests were made of officers responsible for the wide-scale and abusive looting, nor was any compensation provided to OKIMO or the Congolese state for such activities. In September 2004 the DRC government demanded \$16 billion in compensation from the Ugandan government for the plunder of natural resources by its forces while they occupied parts of the DRC, in violation of international law.<sup>41</sup> In newspaper reports, representatives from the Ugandan government acknowledged some responsibility for the killings, plunder and looting the DRC suffered at the hands of their troops, but made no commitment to pay compensation stating the amount demanded was “colossal.”<sup>42</sup>

In 2002 under international pressure Ugandan forces started to withdraw from parts of the DRC and moved their troops out of Durba leaving the area to a breakaway faction of the original RCD, this one known as the RCD-ML and its armed group, the APC. After the Sun City agreement in 2002, RCD-ML became allied also with the national government. In the following two years, this gold mining region changed hands several times between rival national movements and local armed groups. Each time there was one constant. “Every time there was a change of armed group,” said one witness, “the first thing they did was to immediately start digging for gold.”<sup>43</sup> With the establishment of the transitional government in mid-2003, Kinshasa supposedly reasserted control over the region, but in fact formerly rebel military forces continued to play a role in exploiting the gold though they now claimed to be part of a newly integrated national army.<sup>44</sup>

### ***Local Armed Groups Fight for the Gold of Ituri, 2002-2004***

With the withdrawal of all – or most – of the Rwandan and Ugandan soldiers from eastern Congo in 2002 and 2003, local armed groups became the main direct contenders for control of areas rich in gold. In Ituri District the most important of these groups were affiliated with either the Hema or the Lendu, ethnic groups that had been battling

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<sup>40</sup> Ibid., p. 69 and 70.

<sup>41</sup> Article 55 of the Hague Regulations (Convention IV).

<sup>42</sup> David Musoke and A. Mutumba-Lule, “DRC Wants \$16 billion for Plunder by Uganda, Rwanda,” *East African*, September 27, 2004.

<sup>43</sup> Human Rights Watch interview, Durba, May 13, 2004.

<sup>44</sup> Human Rights Watch interviews, Durba and Watsa, May 11 – 13, 2004.

over land and fishing rights since 1999.<sup>45</sup> Because the ethnic conflict became intertwined with the struggle over gold, the fighting in Ituri District drew in far larger numbers of civilians than was the case around Durba, in Haut Uélé District. Both areas had significant gold mines but Durba suffered less historical ethnic tensions between the Hema and Lendu. Controlling sites rich in gold assured armed group leaders the means for buying guns and other supplies to carry on the conflict and also guaranteed political importance to the leaders, increasing the possibility that they would earn recognition and coveted posts at national level.<sup>46</sup>

Although local armed groups moved to center stage as the major actors, Ugandan and Rwandan soldiers continued to play a role, providing arms and advice to leaders of these armed groups, sometimes directly, sometimes through one or the other of the Congolese rebel movements with which they were allied. These supporting actors had their own agendas and were ready to shift alliances with local actors as circumstances changed. By 2002 Rwanda and Uganda had fallen out, a split highlighted by combat between their forces at Kisangani in May 2002. The division between them added further complexity to the dynamics of local alliances, sometimes increasing opportunities for local groups to play off one powerful backer against the other. A third armed group of mixed ethnicity, the FAPC led by Commander Jérôme Kakwavu, a Congolese Tutsi and former RCD-ML commander, joined the struggle in support of the Hema. Local armed groups, rebel movements, and Rwanda and Uganda all juggled multiple interests, but always important among them was desire to control the gold.

During this period, the Congolese government had little influence in Ituri, leaving local affairs largely to its ally, the RCD-ML. In an attempt by the international community to find a political solution to the ongoing fighting in Ituri, the U.N. chaired dialogue between the Congolese government, armed groups and the Ugandan government resulting in the establishment of an ad hoc Ituri Interim Administration (IIA) in April 2003. When this body proved ineffective, the national government and MONUC in May 2003 pressured representatives of six armed groups to pledge in writing to cooperate with the peace process. The Foreign Affairs Commissioner of the FNI showed no intention of honoring the pledge, saying, "We were forced to sign the document. It means nothing to us."<sup>47</sup> Leaders of other groups apparently felt the same way and fighting has continued since then between militia themselves and between militia and

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<sup>45</sup> Human Rights Watch, "Ituri: 'Covered in Blood'" and "Uganda in Eastern DRC: Fuelling Political and Ethnic Strife", *A Short Report*, March 2001 and "Chaos in Eastern Congo: U.N. Action Needed Now," *A Briefing Paper*, October 2002.

<sup>46</sup> United Nations Security Council, "Special Report on the Events in Ituri", July 16, 2004, p. 5.

<sup>47</sup> Human Rights Watch interview, Floribert Njabu, President of the FNI and Lonu Lonema, Foreign Affairs Commissioner FNI, Kampala, July 3, 2004.

MONUC peacekeeping troops. In February 2005, after the killing of more U.N. peacekeepers in Ituri, MONUC renewed its pressure on the armed groups. Some of the militia leaders declared again they were prepared to participate in disarmament operations, though at the time it writing it was unclear if this time they would stick to their commitments.

Poorly funded by the international community and not supported by MONUC, the interim administration accomplished little and was dissolved in June 2004. The transitional government restored local administrative structures, and appointed administrators with little or no connection to the armed groups. The new functionaries remained largely unpaid and had no means to exercise control over armed groups.

In an attempt to resolve the security problems, President Joseph Kabila, who succeeded as president after the death of his father Laurent Kabila in 2001, signed a decree in late 2004 granting six leaders of the Ituri armed groups positions as generals in the newly integrated Congolese army and a further thirty-two militiamen positions as lieutenant-colonels, colonels and majors. Despite divisions within the transitional government about these appointments, the generals were welcomed into army ranks in January 2005. The government provided no assurances that the newly appointed generals would not be returned to Ituri nor did it make any commitments to starting judicial investigations into serious allegations of war crimes and crimes against humanity allegedly carried out by the new appointees. The integration of alleged war criminals into senior army ranks was denounced by Human Rights Watch and international diplomats.<sup>48</sup> In the aftermath of the killing of nine U.N. peacekeepers in Ituri in February 2005, the transitional government arrested Floribert Njabu, Thomas Lubanga and a handful of other senior Ituri commanders though at the time of writing they had not yet been charged with any crimes or brought to justice.

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<sup>48</sup> See Human Rights Watch, "D.R. Congo: Army Should Not Appoint War Criminals," *Press Release*, January 14, 2004.

### ***Justice for UPC crimes***

Human Rights Watch reported on the November 2002 massacre at Mongbwalu in July 2003 and a year later a report to the U.N. Security Council also detailed the massacre of civilians around Mongbwalu. To date the perpetrators of these crimes have not been brought to justice either by the UPC or by the DRC transitional government.

The UPC splintered into two factions in early December 2003. The branch led by Commander Kisémbó changed from a largely military movement to a political party and received recognition as a national political party in mid-2004. Commander Kisémbó was arrested by MONUC troops on June 25, 2004 for continued military recruitment but was later released without charge. Since October 2003 Thomas Lubanga, leader of the other UPC faction, has been restricted by the transitional government to Kinshasa where he lives at the Grand Hotel. He was arrested in Kinshasa in March 2005 but has not yet been charged with any crimes. Commander Bosco remains the chief military officer in charge of the UPC Lubanga faction based in Ituri. MONUC claims he is responsible for the attack on a MONUC convoy resulting in the death of a Kenyan peacekeeper in January 2004 and for taking a Moroccan peacekeeper hostage in September 2004.<sup>92</sup>

Commanders Salumu and Sey, still part of Commander Jérôme's forces, were selected for training at the Superior Military College in Kinshasa in preparation for joining the newly integrated Congolese army as senior officers. Human Rights Watch is not aware of any vetting carried out by DRC military officials or international donors who support army integration to determine their unsuitability for senior posts because of their involvement in human rights abuses.<sup>93</sup>

In March 2003, the UPC lost control of the Mongbwalu area and the profits from its gold mines when they were attacked and pushed back by a new alliance of forces led by their former ally turned enemy: the Ugandan army.

### ***Massacres and other Abuses by the FNI, FAPC and the Ugandan Army***

After having dropped the Hema, Ugandan soldiers built a new alliance with the Lendu, who had created the FNI party under Floribert Njabu in November 2002. At the end of February 2003, Commander Jérôme also ended his link with the UPC and created his

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<sup>92</sup> Human Rights Watch interview, MONUC human rights section, Bunia, February 20, 2004.

<sup>93</sup> Donors involved in security sector and army reform in the DRC include the Belgian and South African governments and the European Union.

militia, known as the FAPC, based in the important border town of Aru, northeast of Mongbwalu. According to a special report to the U.N. Security Council on Ituri, the FAPC was created with direct Ugandan support.<sup>94</sup>

With international pressure growing to withdraw their troops from Ituri, Ugandan soldiers sought to secure maximum territory for their local allies. On March 6, 2003 reportedly in response to an attack by the UPC, the Ugandan army drove the UPC out of Bunia with the assistance of Lendu militias. One former Lendu leader who participated in the operation said that he and his men had done so at the request of Ugandan army Brigadier Kale Kayihura.<sup>95</sup> Ugandan soldiers and FNI combatants chased fleeing UPC troops northwards towards Mongbwalu.

### ***Massacre at Kilo, March 2003***

On March 10, 2003 the Ugandan and Lendu forces attacked Kilo, a town just south of Mongbwalu, with the Lendu arriving several hours before the Ugandans.<sup>96</sup> The Lendu combatants met little resistance from the UPC and began killing civilians who they presumed to be of Nyali ethnicity, accusing them of having helped the Hema. According to local sources, they killed at least one hundred, many of them women and children. They looted local residences and shops and required civilians to transport the booty for them.<sup>97</sup> Residents walking on the road near the town of Kilo nearly a month later still reported the smell of corpses rotting in the forest.<sup>98</sup>

A local woman witnessed her house being burned and then saw the Lendu combatants kill a man, five women, and a child with machetes. She was then forced to help transport loot for the Lendu combatants. She recounted that, en route, the Lendu selected four children between ten and fifteen years old, Rosine, Diere, Kumu and Flory, from the group and killed them and then killed five more adults. When some of the women faltered under the heavy loads they were forced to carry, the Lendu killed them and cut off their breasts and then cut their genitals. The witness said,

At Kilo Mission on top of the hill there were many Lendu combatants. They had a few guns but mostly machetes, bows and arrows. They were

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<sup>94</sup> Ibid., U Nations Security Council, "Special Report on the Events in Ituri", p13

<sup>95</sup> Human Rights Watch interview, former Lendu militia leader, February 21, 2004.

<sup>96</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>97</sup> Human Rights Watch interview, local analysts, Bunia, October 10, 2004. Also Human Rights Watch interview, Floribert Njabu, President of the FNI, May 2, 2004.

<sup>98</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

very dirty and had mud on their faces so we wouldn't recognize them. On the hill we saw many bodies of people who had been killed. They were all lying face down on the ground. They were naked. The Lendu were getting ready to burn the bodies. There were many of them, too many to count.<sup>99</sup>

According to witnesses, Commander Kaboss commanded the attack. He reported to Commander Matesso Ninga, known as Kung Fu, who was in charge of operations for the FNI, though he was not seen at Kilo during the massacre. At the time, the FNI Military Chief of Staff was Maitre Kiza.<sup>100</sup>

Ugandan troops under Commander Obote arrived a few hours after the Lendu and tried to stop their killing. The witness said,

When the Ugandan soldiers arrived they started to hit the Lendu and shot at them. They said to them, "Why have you killed people, we said you could loot but not to kill people. You will tarnish our reputation." They tried to return some of the loot but the Lendu were starting to run away. The Ugandans said they regretted the way the Congolese behaved and they regretted very much that the chief's house had been burned and ruined.<sup>101</sup>

Although the Ugandans stopped the killings in the town, the FNI combatants continued to kill people in the surrounding villages such as Kabakaba, Buwenge, Alimasi and Bovi. "If the Ugandans heard about the killings," said one witness, "they would go to try and stop it, but it was often too late."<sup>102</sup> Local authorities also reported the rape of some twenty-seven women and the burning of villages, including Emanematu and Livogo which were completely destroyed.<sup>103</sup>

Although the Ugandan soldiers tried to limit FNI abuses after the Kilo attack, they neither disarmed the combatants nor ended their military alliance with them. Instead they continued their joint military operation towards Mongbwalu arriving there on

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<sup>99</sup> Human Rights Watch interview, Bunia, February 24, 2004.

<sup>100</sup> Human Rights Watch interview, local analysts, Bunia, October 10, 2004. Also Human Rights Watch interview, Floribert Njabu, President of the FNI, May 2, 2004.

<sup>101</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>102</sup> Human Rights Watch interview, Bunia, February 24, 2004.

<sup>103</sup> Human Rights Watch interview, local authorities, Bunia, October 8, 2004.



March 13, 2003 and set up the military headquarters for the 83<sup>rd</sup> Battalion.<sup>104</sup> The next day a community leader sought security assurances from Ugandan Commander Okelo, who was in charge of the military camp. According to him, Commander Okelo confirmed that “he controlled the Lendu combatants and he had given them one week to put down their traditional weapons.”<sup>105</sup> Witnessed observed Ugandan army troops carrying out joint patrols with Lendu combatants and reported that “it was clear the Ugandan army was in command.”<sup>106</sup>

When the Ugandan soldiers left Ituri two months later, they were still working closely with the FNI. According to an Ugandan army document dated May 1, 2003, Ugandan Major Ezra handed over control of Mongbwalu to FNI Commanders Mutakama and Butsoro as Ugandan army troops left the area. All parties signed the document, witnessed by MONUC observer Oran Safwat.<sup>107</sup> Although Commander Jérôme and most of his troops had withdrawn to Aru, a contingent under Commander Sey remained at Mongbwalu.

Witnesses also said that Ugandan army commanders left behind some of their ammunition and weapons for the FNI.<sup>108</sup> In addition, a shipment of Ugandan arms bound for Mongbwalu was seized by MONUC in Beni several months after the Ugandans withdrew. Those accompanying the arms reported that the FNI were still getting aid from Uganda and that the weapons seized in Beni were meant for them. According to the MONUC report on the incident, one of those accompanying the weapons, a deputy administrator from Mongbwalu, admitted he was constantly in touch with the Ugandans.<sup>109</sup>

### ***Accountability for the March 2003 Kilo Massacre***

Many witnesses reported the abuses to local authorities who in turn wrote a letter to the MONUC human rights section in Bunia on September 26, 2003 listing 125 civilian deaths, cases of torture and rape in the Kilo area from March to May 2003 carried out by

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<sup>104</sup> Letter from Brigadier Kale Kayihura to the Regional Director of MONUC in Bunia, RE: Disposition of UPDF in the Two Command Sectors of Bunia and Mahagi., April 17, 2003. The document also confirms that 1 Infantry Coy was left in Kilo.

<sup>105</sup> Human Rights Watch interview, Mongbwalu, May 2 and 4, 2004.

<sup>106</sup> Ibid.

<sup>107</sup> UPDF Restricted Document, “Withdrawal of Ugandan Peoples’ Defence Forces from the Democratic Republic of Congo,” UPDF Form No. AC/DRC/01 signed in Mongbwalu, May 1, 2003. Document on file at Human Rights Watch.

<sup>108</sup> Human Rights Watch interview, Mongbwalu, May 2, 2004.

<sup>109</sup> Confidential U.N. internal report on the investigation into the plane seizure in Beni, July 25, 2003.

FNI combatants while Ugandan soldiers were still present in the area.<sup>110</sup> No response was received and on November 20, 2003 a second letter was sent detailing a further nineteen deaths, eight cases of torture and two cases of rape between July to November 2003.<sup>111</sup>

The Ugandan army had command control over the FNI combatants during their joint military operation and should be held responsible for the abuses committed by FNI combatants. Although they may have attempted to minimize crimes by organizing joint patrols and requesting that combatants lay down their traditional weapons, they did not carry out any further steps to ensure accountability for these crimes. In addition, they soon armed the FNI with modern weapons. Human Rights Watch is not aware of any investigation or arrest made by either the Ugandan army or the FNI authorities into abuses committed by their troops. To date no one has been held responsible for the massacre of civilians and other serious human rights abuses committed in Kilo.

### ***The 48 Hour War, June 2003 and subsequent massacres***

After the Ugandan forces left in May 2003, the UPC retook Mongbwalu on June 10, 2003. Despite having recently received additional weapons from Rwanda, delivered at a newly constructed airstrip some 30 kilometers from Mongbwalu,<sup>112</sup> the UPC was able to hold the town for only forty-eight hours before being pushed back by the FNI combatants under the command of Mateso Ninga, known as Kung Fu. The FNI counter attacked with heavy weapons that had reportedly been left behind by the Ugandans.<sup>113</sup> For the Lendu, their victory in what became known as the “48 Hour War,” was a source of great pride. Based on local testimony, it appears that some 500 persons were killed during the Lendu counterattack, many of them civilians.<sup>114</sup>

FNI authorities asserted that the UPC attacked Mongbwalu in order to regain control of the gold.<sup>115</sup> In addition, a large number of civilians accompanied the combatants, apparently intent on looting and helping the combatants loot the town.<sup>116</sup> According to

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<sup>110</sup> Letter from local authorities to MONUC Human Rights Section in Bunia, “Transmission of report on the tragic events carried out by Lendu combatants in Banyali/Kilo from March 9, 2003 till present against the civilian population”, Ref No 323/09/1,180/2003, September 26, 2003.

<sup>111</sup> Letter from local authorities to MONUC Human Rights Section in Bunia, “Table of Human Rights Violations in B/Kilo Sector”, Ref No 323/21/1,180/2003, November 20, 2003.

<sup>112</sup> *Ibid.*, Panel of Experts, “Confidential Supplement to the U.N. Security Council”, November 2003.

<sup>113</sup> Human Rights Watch interviews, FNI authorities, Mongbwalu, May 2, 2004 and local residents, May 3, 2004.

<sup>114</sup> Human Rights Watch interviews, Beni and Mongbwalu, February 27 and May 2, 2004.

<sup>115</sup> Human Rights Watch interview, FNI authorities, Mongbwalu, May 2, 2004.

<sup>116</sup> Human Rights Watch interview, Beni, February 27, 2004.

witnesses and FNI authorities, they represented a large number of those killed during the Lendu counterattack.<sup>117</sup> One witness recounted being shocked at the sight of so many bodies, civilians as well as combatants, in town on the day of the Lendu victory. He said,

[Commander] Kung Fu saw that many people died and he asked people to help with burying. But there were too many so they just decided to burn them instead. They burned for at least three days. There was a terrible smell in the air.<sup>118</sup>

FNI officials acknowledged to a Human Rights Watch researcher that civilians had accompanied the UPC combatants.<sup>119</sup> During a commemorative re-enactment of the battle at 2004 May Day celebrations in Mongbwalu stadium, witnessed by Human Rights Watch, women and young people playing the role of Hema civilians were portrayed carrying goods before they were killed by Lendu combatants under the command of Kung Fu. The play went on to show the community burning the bodies of those killed and declaring Commander Kung Fu a hero.<sup>120</sup> But when questioned on the issue, the self-styled president of the FNI, Floribert Njabu, asserted that there had been no civilians with the attacking combatants. He declared that the FNI had “professional commanders who know about the international rules of war”<sup>121</sup> implying they would not have killed civilians.

There is no evidence to suggest that the FNI combatants distinguished between military and civilian targets during the battle. According to local reports and witnesses the killing was indiscriminate and did not distinguish women and children from combatants. While it is not unusual for women and children to take part in looting activities in such military operations in Ituri, they should have been respected.

Shortly after retaking Mongbwalu from the UPC, FNI combatants continued their attacks against Hema civilians. Between July and September 2003, FNI combatants attacked numerous Hema villages to the east of Mongbwalu including Nizi, Drodro, Largo, Fataki and Bule. In the town of Fataki a witness arriving shortly after one such attack by FNI combatants reported seeing the fresh corpses of victims dead in the

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<sup>117</sup> Human Rights Watch interviews, Beni and Mongbwalu, February 27 and May 2, 2004.

<sup>118</sup> Human Rights Watch interview, Mongbwalu, May 1, 2004.

<sup>119</sup> Human Rights Watch interview, FNI officials, May 2, 2004.

<sup>120</sup> May Day Celebrations, Mongbwalu Stadium, May 1, 2004 attended by a Human Rights Watch researcher.

<sup>121</sup> Human Rights Watch interview, President Floribert Njabu of the FNI, Mongbwalu, May 7, 2004.

streets with their arms tied, sticks in their rectums, and body parts such as ears cut off.<sup>122</sup> In Drodro witnesses reported that FNI combatants attacked the hospital shooting Hema patients in their beds.<sup>123</sup> Local sources claimed scores of civilians had been killed in these attacks and thousands of others were forced to flee. A stark warning was left behind by the attackers etched on the wall of a building in Largo, “Don’t joke with the Lendu.”<sup>124</sup>



A young Hema victim in the hospital in Drodro. Lendu combatants tried to kill her by chopping her neck with machetes. Many women and children, both Hema and Lendu, have been targeted on the basis of their ethnicity. © 2003 Marcus Bleasdale.

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<sup>122</sup> Human Rights Watch interview, international journalist, London, January 12, 2005.

<sup>123</sup> Ibid., See also Helen Vesperini, “DR Congo villagers reel from second massacre in four months,” *Agence France Presse*, July 27, 2003.

<sup>124</sup> Ibid.

There was a substantial MONUC presence in Ituri at the time as well as European Union peacekeeping troops as part of Operation Artemis.<sup>125</sup> No U.N. officials reported on the killings in Mongbwalu in June 2003. U.N. and E.U. troops were made aware of the later killings in areas to the east of Mongbwalu by international journalists who had visited the area and conducted fly-over operations in attempts to deter further violence. The Artemis mandate granted by the U.N. security council did not allow for peacekeeping actions outside of the town of Bunia.

### ***A 'Witch Hunt' for Hema Women and other Opponents***

Shortly after the UPC attack in June 2003, FNI combatants began accusing Hema women living in and around Mongbwalu of spying for Hema armed groups. Hema women still living in the area were few in number and most of them were married to Lendu spouses and had been able to live safely within the Lendu community. But after the "48 hour war" Lendu combatants arrested, tortured and killed these women and some men, accusing them of 'dirtying and betraying' their society. Using charges of witchcraft, Lendu combatants and spiritual leaders covered their crimes by claiming the killings had been ordered by a spirit known as Godza. More moderate FNI officials found it difficult to counter these claims and did nothing to stop them. A witness said,

After the June [2003] attack, the Lendu decided to kill all the Hema women without exception. There were women I knew who were burned. I had never seen that kind of thing before. Previously Hema women who were married to outsiders were not harmed. Now they wanted to hunt these women. The Lendu spirit, Godza, told them to kill all the Hema women during one of the Lendu spiritual ceremonies. One of the women they killed was Faustine Baza. I knew her well. She was very responsible and lived in Pluto. The FNI came to get her and took her to their camp. They killed her there. They killed other women as well. I did not want to be a part of this so I left. I couldn't stay while they were exterminating these Hema women. They did it in Pluto and Dego. They came from Dego with thirty-seven Hema women to kill. I don't want to return now - it's too hard.<sup>126</sup>

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<sup>125</sup> Operation Artemis was the name of the Interim Emergency Multinational Force sent by the European Union and authorised by the U.N. Security Council under Resolution 1484 on May 30, 2003 to contribute to the security conditions and improve the humanitarian situation in Bunia. It was a limited three month mission with a geographical scope to cover only the town of Bunia.

<sup>126</sup> Human Rights Watch interview, Beni, February 27, 2004.

Another witness said,

In July women were killed at Pluto and Dego. The strategy was to close them in the house and burn it. More than fifty were killed. Pluto was considered the place of execution for Hema people from Pluto and other places too. They captured the women from the surrounding countryside. They said it was to bring them to talk about peace. They put ten women in a house, tied their hands, closed the doors, and burned the house. This lasted about two weeks, with killing night and day. After that, no more Hema women were left in [our area] and the men were prevented from leaving with their children. They called the women “Bachafu” – dirty. Sometimes the men would be taken to prison. Suwa’s husband was asked to pay \$300. They told him they killed his wife, and he had to pay thirty grams of gold (\$300) to clean the knife they had killed her with.<sup>127</sup>

Many people were aware of the killings and bodies were often seen in the towns. A witness reported seeing six bodies of women at the Club, a well-known building in Mongbwalu, in mid-2003. He said many other passers-by also saw the nude and brutalized bodies and that Lendu combatants were trying to recruit people to help burn them.<sup>128</sup> A community leader in an outlying village expressed his frustration about the continuation of the practice, saying he had been interrogated more than ten times by Lendu combatants as to the whereabouts of Hema women. He said to a Human Rights Watch researcher, “I want to know what Kinshasa is going to do to help us. Are they going to let the FNI stay here? The population is really suffering.”<sup>129</sup>

The operation against Hema women extended to men and other tribes as well and continued at least until April 2004, killing some seventy persons in Pluto, Dego, Mongbwalu, Saio, Baru, Mbau and Kobu and possibly in other locations in the Mongbwalu area. By this point, the allegation of witchcraft became a common accusation, often resulting in death after a ‘judging ceremony’ by local spiritual leaders. Carried out in secret these judging ceremonies used different methods to determine a person’s guilt or innocence. One civilian accused of being Hema described to a Human Rights Watch researcher the ceremony he and others were forced to undergo after being caught by Lendu combatants in 2003:

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<sup>127</sup> Human Rights Watch interview, Beni, February 27, 2004.

<sup>128</sup> Human Rights Watch interview, Mongbwalu, May 2, 2004.

<sup>129</sup> Human Rights Watch interview, village outside Mongbwalu, May 6, 2004.

A local fetisher [spiritual leader] came to the place I was being held. He had two eggs with him. I was tied up and very scared. He rolled the eggs on the ground at my feet. I was told if the eggs rolled away from me then I would be considered innocent. But if the eggs rolled back towards me then I was considered to be a Hema and I would be guilty. I was lucky, the eggs rolled away from me. Another person, Jean, who I was with, was not so lucky. The eggs rolled the wrong way and he was told to run. As he ran the Lendu shot their arrows at him. He fell. They cut him to pieces with their machetes in front of my eyes. Then they ate him. I was horrified.<sup>130</sup>

In the Mongbwalu area the killings continued throughout 2003 and into 2004. A witness described to a Human Rights Watch researcher the ongoing killings:

[After the June war] they said they did not want the Hema to return. Those who stayed were killed. They killed them in Saio and Baru. They would just take them away. A man called Mateso, Bandelai Gaston, a Nyali, and his brother Augustin were killed because they were accused of being witches. There were also women who were killed. Celine, an Alur, was killed for witchcraft. Gabriel, a Kakwa, and his wife were also killed. They were accused of protecting Hema people.<sup>131</sup>

Some community leaders raised concerns about the 'Godza ceremonies' with FNI leader Njabu, in July 2003. At the time he seems to have done nothing to stop the killings, but according to local residents, the number decreased after he moved to Mongbwalu in February 2004, whether simply as a coincidence or as the result of his presence is unclear.<sup>132</sup>

While some FNI authorities may have been against such killings, and perhaps took steps to minimize them, at the time of writing no one has been held responsible for them. Human Rights Watch is not aware of any investigation carried out by FNI representatives into these killings.

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<sup>130</sup> Human Rights Watch interview, Arua, Uganda, February 2003.

<sup>131</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>132</sup> Human Rights Watch interviews, Mongbwalu, May 2 and May 4, 2004.

### ***Murder of two MONUC Observers***

On May 12, 2003, shortly after Ugandan troops had left Mongbwalu to the FNI and the FAPC, FNI combatants deliberately killed two unarmed U.N. military observers, Major Safwat Oran of Jordan and Captain Siddon Davis Banda of Malawi. Rumors of an impending Hema attack—which would actually happen with the “48 hour war” a month later—caused panic among town residents, about one hundred of whom sought refuge at the residence of the MONUC observers. The observers, apparently concerned themselves, arranged to be evacuated. When the U.N. helicopter arrived at a nearby airstrip, FNI combatants refused to allow the observers to pass. Led by FNI Commander Issa, the combatants took them to FAPC Commander Sey at his headquarters at the “apartments.” “The combatants were chanting that Sey should not let them leave,” said one witness.<sup>133</sup>

Shortly after, the combatants led the observers away again, apparently because Sey declined to take them under his protection, and killed them a short distance from the “apartments.” A witness who passed by later that afternoon said,

I found the bodies on the road leading down from the apartments. They had both been shot. One was shot in the head and the other in the stomach. I found the military of the FAPC around the bodies.<sup>134</sup>

Local residents transported the bodies to the FAPC headquarters and placed them in a nearby empty house. Sey and his combatants fled from Mongbwalu that evening, apparently seeking to distance themselves from the crime.<sup>135</sup> Local residents later buried the two bodies in a shallow grave in Mongbwalu.<sup>136</sup>

According to several Mongbwalu residents, FNI Commander Issa was responsible for the killings. Witnesses reported that FNI combatants took possession of the observers’ U.N. cars and used them until they were recovered by the U.N.<sup>137</sup>

During discussions with a Human Rights Watch researcher, the FNI’s leader Njabu said, “We did not investigate the killings. It is not our affair. Our military were at Saio at the

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<sup>133</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>134</sup> Ibid.

<sup>135</sup> Human Rights Watch interview Mongbwalu, May 5, 2004.

<sup>136</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>137</sup> Human Rights Watch interview, Bunia, and Mongbwalu, February 19 and May 4, 2004.



time, seven kilometers away. Commander Jérôme's combatants were at the apartments. You should ask Commander Sey what happened."<sup>138</sup> But in a second interview days later he admitted that Commander Issa might also have been present and he indicated that an investigation was ongoing.<sup>139</sup> More than one year later, FNI authorities had not yet announced any results of an investigation. According to one unconfirmed local report, FNI Commander Kung Fu did carry out an investigation and, presumably as a result, Commander Issa fled and was reportedly later killed.<sup>140</sup>

### ***Threat Against Human Rights Defenders and Others Reporting Abuses***

Some FNI combatants tried to keep local people from being in touch with MONUC or other outside agencies, apparently for fear that they would pass on information about FNI abuses.

Important FNI commanders threatened human rights activists from the organization Justice Plus after they had traveled to Europe and spoken about the situation in Ituri.<sup>141</sup> Other FNI leaders reportedly planned to look into activities of the organization and threatened that its staff would be considered enemies if they were found to have had contacts with the Rwandans and the Hema.<sup>142</sup>

FNI combatants acted more directly and immediately against local residents known to have spoken with MONUC staff during their occasional visits to Mongbwalu in late 2003.<sup>143</sup> One person so abused said,

I was taken by nine [Lendu] combatants in uniform. They came to my house and shouted, "Get up! What did you say to MONUC?" They threatened me with their spears. They took me to the apartments and I was interrogated by [a Lendu commander]. He asked me what I had said to MONUC. That is all he wanted to know. He threatened me. They hit me on the face. I said I had told MONUC nothing. They said they

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<sup>138</sup> Human Rights Watch interview, FNI President Floribert Njabu, May 2, 2004.

<sup>139</sup> Human Rights Watch interview, FNI President Floribert Njabu, May 7, 2004.

<sup>140</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>141</sup> Human Rights Watch interview, Justice Plus, Bunia, February 24, 2004.

<sup>142</sup> Human Rights Watch interview, Justice Plus, Bunia, February 24, 2004.

<sup>143</sup> After the killing of the two MONUC observers, no other MONUC staff were posted to Mongbwalu until April 2005.

would put me in prison. They took \$100 from me but a commander who knew me saved me and they let me go.<sup>144</sup>

The same person was arrested a second time and severely beaten with bats and ropes. He was kept for seven days and regularly beaten.<sup>145</sup>

Witnesses reported that civilians were threatened for having applauded visits of MONUC staff.<sup>146</sup> After one such mission in November 2003, some twelve civilians were beaten and arrested, and at least one, a man named Choms, was summarily executed. A witness told a Human Rights Watch researcher that Mr. Choms had applauded the arrival of a U.N. plane, saying he thought this meant peace was coming. Local police reported this to the FNI and two combatants of the force arrested Mr. Choms and another person and took them to the police station. A witness who went to the police station the next day to check on Mr. Choms said,

The other prisoners told me he had been interrogated and beaten and that this was followed by a shot. . . . I forced my way into the room and the body was still there. He had no shirt on and there was a bullet in his chest. He had marks on his back from being whipped. They then questioned me and forced me to leave. They wouldn't give us the body for burial.<sup>147</sup>

### ***Arbitrary Arrests, Torture and Forced Labor***

FNI combatants imposed a number of "taxes," collected in an arbitrary and irregular way, and organized forced community labour known as "salongo". FNI representatives resorted to arbitrary arrests, beatings, and other forms of cruel and degrading treatment to obtain the maximum possible payment and service from civilians. According to local residents, these practices worsened considerably after the departure of Ugandan troops.<sup>148</sup>

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<sup>144</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>145</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>146</sup> Ibid.

<sup>147</sup> Human Rights Watch interview, Mongbwalu, May 5, 2004.

<sup>148</sup> Human Rights Watch interview, local residents, Mongbwalu, May 3 and 4, 2004.

Residents were required to pay a “war tax” that varied in amount and in the frequency with which it was due.<sup>149</sup> Traders at the market were also subject to confusing and irregular “tax” demands. One businessman said,

There are about five or six different taxes. They range from \$2 to \$20. Everyone has to pay. You pay when they come and sometimes they come back again after just a few days. It is very irregular. If you don't pay you are beaten or taken to prison. . . . Both military of the FNI and civilians do this.<sup>150</sup>

Human Rights Watch researchers documented similar abusive cases throughout the Mongbwalu area, Kilo, Rethy and Kpandruma. “The people can say or do nothing,” said one witness. “We just do what the FNI say.”<sup>151</sup>

A young trader arrested on February 5, 2004 by the FNI for non-payment of tax was beaten and taken to the Scirie-Abelcoz military camp. He said,

There I spent two days in. . . a hole in the ground covered by sticks. They took me out of the hole to beat me. They tied me over a log and then they took turns hitting me with sticks – on my head, my back, my legs. They said they were going to kill me. . . There was a woman with me in the underground prison. They hit her also. They tried to force me to have sex with her but I couldn't. She was called Bagbedu.

After two days I was taken to Mongbwalu. They made me carry the woman and forced me to sing songs as I was carrying her. I was escorted by three FNI combatants and one kadogo [child soldier]. On the road, we met other soldiers who forced me to drop the woman and beat me more. In Mongbwalu the soldiers beat me again with sticks. They took me to a prison in a house. They also put the woman in the prison but she died four days later. I spent five days there. Every day they beat me.<sup>152</sup>

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<sup>149</sup> Ibid.

<sup>150</sup> Human Rights Watch interview, Ariwara, March 7, 2004.

<sup>151</sup> Human Rights Watch interview, Bunia, February 20, 2004.

<sup>152</sup> Ibid.

After a week, his family paid \$80 and Commander Maki of Camp Goli freed him.

FNI representatives showed a Human Rights Watch researcher a long list of taxes asked of residents, including a “war tax” that they claimed was voluntary.<sup>153</sup>

The FNI used similar practices to enforce the salongo policy of community labour to fix roads, collect firewood for the military, clean up the military camp, or even burn bodies as described above. At times salongo was required for as much as two full days a week, although by late 2004 it had been decreased to once a week for three hours. Participants received a piece of paper showing they had done the required labour. Persons who could not present such proof when asked by police or combatants were subject to beatings, arrest, fines or even death. According to one witness, a young man named Lite who failed to present the required proof when asked was smashed in the head with a gun by a FNI combatant and died from the blow. The witness asked FNI authorities what justice there would be for the family of Lite and, he said, “They responded that the family of Lite could kill the man who had done this act, but the family would not.”<sup>154</sup>

Another man reported that he was rounded up with a group of about one hundred men who had all refused to report for salongo labour some fifteen miles from their homes, saying it was too far. They were forced to walk all night and then were imprisoned and had to pay \$5 for each elderly person, \$10 for each young person, and \$20 for each businessman in order to be freed.<sup>155</sup>

A local administrative official admitted that in order to get laborers for salongo they needed to “intimidate people to come, otherwise they would not.”<sup>156</sup> A person responsible for the salongo in Saio told a Human Rights Watch researcher that the local chief would “deal with people who don’t work,” while a police commander added that he “sanctioned those who refused to work.”<sup>157</sup> He would not elaborate on what kind of sanctions were involved.

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<sup>153</sup> Human Rights Watch interview, Jean Pierre Bikilisende Badombo, Chef de Cité and Sukpa Bidjamaro, Deputy Chef de Cité, May 3, 2004.

<sup>154</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>155</sup> Human Rights Watch interview, Ariwara, March 7, 2004.

<sup>156</sup> Human Rights Watch interview, Mongbwalu, May 4, 2004.

<sup>157</sup> Human Rights Watch interview, Manu Ngabi, local authority and Gerard Kitabo, Police Commander, Saio, May 5, 2004.



Young gold trader arrested and tortured in Mongbwalu in February 2004 by Lendu FNI combatants for being unable to pay a market tax. © 2004 Human Rights Watch

### *Control of the Gold Mines*

Upon taking control of Mongbwalu on March 13, 2003, the FNI militia leaders, like the UPC previously, moved immediately to begin profiting from gold mining. Artisanal miners resumed digging, but had to pay FNI combatants fees to enter the mines, \$1 per person at some mines. Based on entrance records kept by FNI security guards at one mine and seen by Human Rights Watch researchers, the FNI made \$2,000 per month in entrance fees at this one mine alone.<sup>158</sup> Miners also had to deliver to FNI two to five grams of gold per week, often as raw ore. From such ore FNI combatants were able to

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<sup>158</sup> Human Rights Watch visit to Adidi mine, May 3, 2004. Statistics from the entrance book kept by FNI security officials at the entrance mine. Book clearly labeled as FNI.

assess the density of the gold and thus to locate the most valuable veins. They could then send in their own men to mine those areas.<sup>159</sup> As one miner said,

The money that circulates in Mongbwalu is gold. Gold is the economy. The Lendu take the gold from the diggers. They take the best gold areas by force. Lots of people don't want to go and dig for gold as they know it will be taken from them.<sup>160</sup>

FNI combatants, some of them previously gold diggers, also mined gold themselves or organized groups of people to dig for them. In Itendey, a gold area just to the south of Mongbwalu, for example, FNI combatants forced young men to mine gold in a nearby riverbed. A local community leader who had fled from the area told a Human Rights Watch researcher,

The FNI combatants come every morning door-to-door. They split up to find young people and they take about sixty of them to the Agula River to find the gold. They [the young people] are guarded by the military and are not paid. They are forced to work. If the authorities try to intervene they are beaten. The chief has tried to stop this by reasoning with them, but they don't like this. They even force the younger children to leave school to carry sand or transport goods.<sup>161</sup>

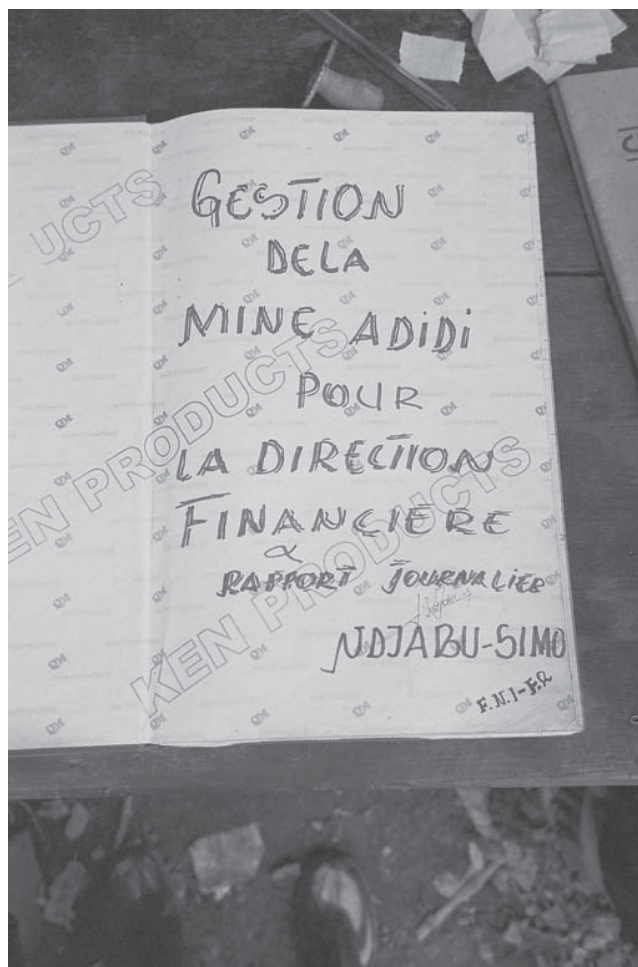
Miners worked in deplorable conditions, exposed to risk of accidents both in the mines and when handling mercury to process the ore.

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<sup>159</sup> Human Rights Watch interview, Bunia, February 23, 2004.

<sup>160</sup> Human Rights Watch interview, Beni, February 25, 2004.

<sup>161</sup> Human Rights Watch interview, Bunia, February 20, 2004.



Entrance register kept by FNI security guards at Adidi gold mine (“Management of Adidi mine for the financial management and daily report, Ndjabu-Simo, FNI-FR”). Each gold miner paid US\$1 to enter the mine and was forced to give a portion of the mined gold to the guards when exiting. © 2004 Human Rights Watch

## Box 2 - Conditions at the Mines

In May 2004 a Human Rights Watch researcher visited mines in Mongbwalu and Durba where many miners and engineering experts spoke of the deteriorating safety conditions at the mines. One former OKIMO engineer told Human Rights Watch about the lack of air in parts of the underground mine where equipment that used to ensure oxygen flows was no longer working. Miners recounted that some of their colleagues had died of suffocation in parts of the mine, especially when fires were lit in attempts to soften hard rock areas, a technique witnessed by Human Rights Watch researchers.<sup>162</sup> Miners also spoke of frequent rocks falls, flooding and other accidents. No safety equipment of any kind was visible.

Miners worked individually or in small groups with rudimentary tools such as hammers and chisels. They were generally in bare feet and carried candles or small flashlights to light their way. In some underground mines, workers walked for kilometers through chest-high water and narrow passages to get to galleries where they could work. Women also worked in the mines often being used as porters.

Mining in open-pit mines, some as deep as 300 meters, is also precarious. Miners spoke of frequent mud-slides and falls. Expert gold engineers lamented the anarchic mining that was taking place with no regard for the safety of the miners themselves or for the longer term damage being caused to the mining facilities.<sup>163</sup>

One miner said, *“There are some areas which were boarded up by the Belgians many years ago. But we just break down the boards and go in anyway. We use a hammer and a large iron bolt or chisel to dig for the gold. The work is very hard and I could only work about six hours per day.”*<sup>164</sup>

Miners, if they are lucky, get about \$10 per day. One miner said, *“I can make between \$5 and \$20 per day if I am lucky and find a good gold vein. Otherwise I could work for 2 weeks just looking for gold and make nothing.”*<sup>165</sup>

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<sup>162</sup> Human Rights Watch interview, former gold engineer, Mongbwalu, May 2, 2004. Also Human Rights Watch visit to Adidi and Makala mines, Mongbwalu, May 3, 2004.

<sup>163</sup> Human Rights Watch interview, OKIMO engineer, Durba, May 13, 2004.

<sup>164</sup> Human Rights Watch interview, gold miner, Bunia, February 21, 2004.

<sup>165</sup> Ibid.



When asked why they worked in such dangerous conditions, one miner responded, *“Tell me what choice I have? This is the only way I can make any money. Its about my own survival and that of my family.”*<sup>166</sup>

The entire mining and refining process is done by hand. After the ore is mined, it is pounded down into sand with the use of an iron bar. The sand is then mixed with water and mercury, which attracts the gold particles and separates it from the rock dust. The mixture of gold and mercury is then heated so the mercury evaporates and the gold remains. Mercury, a dangerous substance, is readily available in the market areas. Human Rights Watch witnessed numerous miners using mercury with no gloves or masks, taking no safety precautions when handling the substance.

In addition to profiting directly from mining, FNI leaders sought to control the trade in gold. According to gold traders, FNI control of the trade was still haphazard and sometimes involved direct use of force. In May 2004, the FNI Commissioner of Mines explained to a Human Rights Watch researcher that the FNI were well aware of the significance of the gold market in Mongbwalu and that “they were looking for additional ways to control the trade.”<sup>167</sup> There are no reliable statistics on the amount of the gold trade from Mongbwalu nor of the proceeds reaped by the FNI from it. Local traders and other informed sources estimated that between 20 and 60 kilograms of gold left the Mongbwalu area each month, a value of between \$240,000 to \$720,000 per month at the time of writing. The majority of the gold is traded from Mongbwalu to Butembo in North Kivu where Dr Kisoni Kambale is one of the main gold exporters (see below).

As one gold miner explained, “The profits enter into the pockets of the FNI,”<sup>168</sup> both in the sense of personal profit and in the sense of profit to the FNI. A former senior FNI commander told a Human Rights Watch researcher that some of the gold proceeds were used to buy weapons and ammunition to supplement weapons recuperated from the battlefield.<sup>169</sup> The leader of the FNI, Njabu, himself admitted to Human Rights Watch researchers that his combatants mined gold and that he traded gold for weapons. He calculated the proceeds he would make from the sale of five kilograms of gold to be about \$50,000, adding “This is not looting as I am Congolese.”<sup>170</sup> A MONUC

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<sup>166</sup> Human Rights Watch interview, gold miner, Mongbwalu, May 2, 2004

<sup>167</sup> Human Rights Watch interview, Mr. Basiani, FNI Commissioner of Mines, May 5, 2004.

<sup>168</sup> Human Rights Watch interview, gold miner, Bunia, February 23, 2004.

<sup>169</sup> Human Rights Watch interview, former FNI commander, Bunia, February 21, 2004.

<sup>170</sup> Human Rights Watch interview, FNI President Floribert Njabu, Kinshasa, October 7, 2003.

investigation into weapons seized in Beni in July 2003 confirmed that the FNI used taxes from the gold mines to buy weapons.<sup>171</sup> Njabu admitted to a Human Rights Watch researcher that he had purchased these weapons, adding, “I want them back or I will fight to get them.”<sup>172</sup>



Artisanal miners transporting tubs of raw ore mixed with dirt out of an open-pit gold mine in Durba. Mining in open-pit mines, some as deep as 300 meters, can be precarious with frequent mud-slides and falls. © 2004 Marcus Bleasdale

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<sup>171</sup> U.N. internal report on the investigation into the plane seizure in Beni, July 25, 2003.

<sup>172</sup> Human Rights Watch interview, FNI President Floribert Njabu, Kinshasa, October 7, 2003.

The FNI armed group was also approached by multinational companies eager to gain access to the significant gold reserves in the area. The FNI Commissioner of Mines explained to Human Rights Watch that they had been approached by a number of different companies but that officially AngloGold Ashanti had the concession in the Mongbwalu area and that they were in contact with them (see below for further information).<sup>173</sup> The arrival of multinational companies into a volatile area where conflict and competition for the control of natural resources are closely interlinked creates further complexities and has the potential to create more violence. While AngloGold Ashanti is the only mining company working in the Mongbwalu area, other companies have signed contracts for work in gold mining areas further north in the town of Durba.

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<sup>173</sup> Human Rights Watch interview, Mr. Basiani, FNI Commissioner of Mines, May 5, 2004.

area. Many local traders in Durba confirmed that they worked for Mr. Oria.<sup>370</sup> In an interview with a Human Rights Watch researcher, Mr. Oria said that he traded gold, explaining that he sold gold in Uganda for Congolese clients and then depositing the proceeds into foreign bank accounts on their behalf.<sup>371</sup>

Mr. Oria's business is not authorized by the state as a trading house and so cannot legally export gold from the Congo nor is it licensed to operate in the foreign exchange market.<sup>372</sup> Mr. Oria's relationship with Commander Jérôme facilitates his illegal trade. Mr. Oria is protected by some of Commander Jérôme's combatants, several of whom have beaten, tortured, and even killed gold traders accused by Mr. Oria of having cheated him (see above). Witnesses claimed Mr. Oria helped finance the FAPC movement and regularly provided food and perhaps other supplies for FAPC combatants.<sup>373</sup> The U.N. group of experts investigating violations of the arms embargo concluded that proceeds from customs and immigration, including those from the gold trade, were channeled into the coffers of the FAPC and used to pay for its military infrastructure. In one case, the group of experts obtained forty handwritten receipts signed by FAPC commanders withdrawing cash from border proceeds for "military emergencies" and "combat rations."<sup>374</sup> Several witnesses said that Mr. Oria and Commander Jérôme were frequently seen together and that Mr. Oria on occasion stayed in Angarakali, the FAPC military camp in Ariwara.<sup>375</sup>

### ***Congolese Gold Exported to Uganda***

The gold traded from northeast Congo goes principally to one destination – Uganda. Both Dr Kisoni and Mr. Oria sell their 'tainted gold' to Ugandan traders based in Kampala, many of whom in turn sell gold to companies in Switzerland and other destinations.<sup>376</sup> Most of this gold is exported illegally from Congo: traders have no export permits or exchange documents, are not authorized trading houses, do not keep accounts at the Central Bank of Congo and do not pay relevant taxes and duties as required under Congolese law.<sup>377</sup> The Congolese population gain almost no benefit

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<sup>370</sup> Human Rights Watch interview with gold traders and business people in Durba, May 13, 2004.

<sup>371</sup> Human Rights Watch interview, Omar Oria, Kampala, March 10, 2004.

<sup>372</sup> Mining Code, Articles 120, 126, 128.

<sup>373</sup> Human Rights Watch interviews, Ariwara, March 6 and 7, and Aru March 7, 2004.

<sup>374</sup> *Ibid.*, Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, para 109.

<sup>375</sup> Human Rights Watch interviews Ariwara, March 6, 2004 and March 7, 2004.

<sup>376</sup> While the primary destination is Switzerland, gold is also traded to Dubai, South Africa and other European countries.

<sup>377</sup> All these requirements are set out under the Mining Code of July 2002.

from this trade; instead they suffer grave human rights abuses by groups seeking to control the trade and the gold mines.



Gold traders conducting business. © 2004 Marcus Bleasdale

The gold is “legalized” in Uganda. Traders in Kampala do not require their Congolese clients to present documents authorizing the export of gold, operating on an “ask no questions” basis. They treat the gold as if it were a transit good, filling out customs forms and other documents required to make its export legal from Uganda and acceptable in the unregulated global market.<sup>378</sup>

In the 1990s most unlicensed exports of gold from Congo went to Burundi, but civil war in Burundi and a regional trade embargo declared in 1997 made Burundi less attractive as a transit point. After a brief shift through Kenya, the trade moved to Kampala where the climate was more favorable. In 1993 the Ugandan Central Bank eased restrictions on gold sales and decided not to tax gold exports.<sup>379</sup> This change followed five years later by the establishment of Ugandan army control over rich gold mining areas of

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<sup>378</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>379</sup> U.S. Geological Survey, “The Mineral Industry of Uganda”, 1997.

northeastern Congo resulted in a dramatic increase in gold exports from Uganda (see chart below).

### ***Gold Export Figures from Uganda***

According to official statistics, Uganda exported nearly \$60 million in gold in 2002, a peak year, and about \$46 million in 2003. But in 2003 specialists in the trade valued it still at \$60 million.<sup>380</sup> According to the Central Bank of Uganda, data from these industry experts may be more accurate than that compiled from government customs data.<sup>381</sup> Whether using industry or official statistics the increase in gold exports has been remarkable. Gold is currently the third top Ugandan export, after coffee and fish.<sup>382</sup> In 2001 gold accounted for 84 percent of the total value of all minerals exported from Uganda; in 2002 it was 99 percent.<sup>383</sup>

Most of the gold exported from Uganda comes from Congo. Domestic production in Uganda is negligible, despite encouragement from the World Bank and new mining regulations introduced in 2001. Statistics from the Ministry of Energy and Mineral Development and official export figures shows that Ugandan gold production accounts for less than 1 percent of the official gold exports.<sup>384</sup> In the annual report of the Ministry of Energy and Mineral Development, discrepancies between gold production and gold exports are striking. In 2002, for example, domestic gold production was valued at \$24,817 while gold exports for the same year were listed as just under \$60 million.<sup>385</sup> When Human Rights Watch researchers asked Ministry representatives about this discrepancy, they refused to comment.<sup>386</sup>

Import statistics fail to show the real scale of the gold trade. Officially, gold brought into Uganda should be declared upon entry as an import if expected to stay in the country, or as a transit good if intended for another final destination. But official Ugandan import statistics show a tiny amount of gold imported to the country and show no statistics for

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<sup>380</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>381</sup> E-mail correspondence with the Central Bank of Uganda, July 12, 2004.

<sup>382</sup> Ugandan Bureau of Statistics, Value of Exports by Commodity 1998 – 2003.

<sup>383</sup> Annual Report 2002, Ugandan Ministry of Energy and Mineral Development available at [www.energyandminerals.go.ug](http://www.energyandminerals.go.ug) (retrieved at February 2005).

<sup>384</sup> Based on statistics on production from the Ugandan Ministry of Energy and Mineral Development and official export figures from the Ugandan Bureau of Statistics from 1998 to 2003.

<sup>385</sup> Annual Report 2002, Ugandan Ministry of Energy and Mineral.

<sup>386</sup> Human Rights Watch interview, Ugandan Ministry of Energy and Mineral Development Representative, July 2004.

transit goods. The unofficial trade in gold is likely facilitated by the lax enforcement of regulations at the Uganda-Congo border posts. According to a study conducted in 2004 by the Ugandan Bureau of Statistics (UBOS), over 50 percent of all imports and exports went unrecorded at six border posts.<sup>387</sup> In cases where people wanted to hide precious minerals, the study estimated the entry of such goods went completely unrecorded. The U.N. group of experts monitoring the arms embargo to eastern DRC observed that at the northern border post of Vurra, between Aru (DRC) and Arua (Uganda), there was limited or no customs and immigration inspection, especially in the case of FAPC combatants who were allowed to cross freely.<sup>388</sup>

Since Ugandan gold production figures are less than 1 percent of official exports, most gold being exported must have entered Uganda from elsewhere. Official statistics fail to record the entry of significant amounts of gold hence most of this trade must be illegal and unrecorded. In 2004 the discrepancy between gold produced in the country and that exported was just over \$45 million per year, as shown by the official figures below.

**Table 1:**  
**Official Ugandan Gold Import, Export and Production, Figures in US\$**

| Year                  | 1998       | 1999       | 2000       | 2001       | 2002       | 2003       | 2004       |
|-----------------------|------------|------------|------------|------------|------------|------------|------------|
| Gold Exports          | 18,600,000 | 38,360,000 | 55,730,000 | 50,350,000 | 59,900,000 | 45,760,000 | 45,590,000 |
| Gold Imports          | 0          | 2,000      | 3,076,000  | 890,000    | 0          | 2,000      | n/a        |
| Local Gold Production | n/a        | 40,307     | 477,000    | 1,412      | 24,817     | 23,000     | 21,000     |
| <b>Discrepancy</b>    | 18,600,000 | 38,317,693 | 52,177,000 | 49,458,588 | 59,875,183 | 45,735,000 | 45,569,000 |

*Note: Statistics for 2004 are estimates*

*Source: Ugandan Bureau of Statistics, Ministry of Energy and Mineral Development and Central Bank of Uganda.*

### **Gold Traders in Kampala**

Gold industry experts in Kampala acknowledged and readily explained the discrepancy between domestic production of gold and amount of its export, as shown by official statistics. In interviews with Human Rights Watch researchers, gold traders confirmed

<sup>387</sup> Human Rights Watch interview, Ugandan Bureau of Statistics, Trade Representative, Entebbe, July 2004.

<sup>388</sup> *Ibid.*, Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, para 98.

that most of the gold they exported came from Congo. They estimated the trade to be worth about \$60 million per year.<sup>389</sup> There are three main gold export businesses in Kampala. The largest two, Uganda Commercial Impex Ltd and Machanga Ltd, control an estimated 70 percent of the export trade from Uganda. Since profit margins on each trade are relatively small, these traders make profits by trading in high volume and by offering good quality gold, for which they need a reliable source of supply.

Uganda Commercial Impex Ltd. is the largest gold exporter in Uganda. In an interview with Human Rights Watch researchers, its representatives said that nearly 90 percent of their gold came from Ituri and they confirmed that Dr Kisoni Kambale from Butembo was “one of their customers.”<sup>390</sup> Company representatives explained they paid their customers cash for the gold or transferred funds into the customer’s bank accounts held either locally or abroad. Like Dr. Kisoni, they had their own refinery on the premises, to process any gold that arrived as ore before exporting it to Switzerland and South Africa. Representatives of the company stated they declared the gold upon export, ensuring that a customs form and airway bill accompanied each shipment.<sup>391</sup>

Representatives of Machanga Ltd, the second largest gold exporter, also told Human Rights Watch researchers that the gold they traded came from Congo and they confirmed that one of their customers was Mr. Omar Oria.<sup>392</sup> They further explained they advanced cash for the purchase of gold, sometimes as much as 30 percent of the anticipated purchase price, a system used also by Mr. Oria in Ariwara. Machanga representatives stated they exported all their gold to Metalor Technologies SA, a gold refining company in Switzerland.<sup>393</sup> Other traders stated they also sold gold to Switzerland as well as to other locations such as South Africa and Dubai.

Trading companies in Kampala do not operate illegally but rather benefit from the loose regulation of the gold trade. Not required to request import documentation or to ask the origin of the gold, they buy smuggled Congolese gold as if it had entered Uganda legally and export it as a legal commodity. An essential bridge to the global economy, they benefit from the risks taken by Congolese dealers like Dr. Kisoni and Mr. Oria and from their relationships with local armed groups.

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<sup>389</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>390</sup> Human Rights Watch interview, Kanal Chune, Uganda Commercial Impex Ltd, Kampala, July 7, 2004.

<sup>391</sup> Ibid.

<sup>392</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004.

<sup>393</sup> Ibid.



They may however be breaching a U.N. arms embargo. The U.N. group of experts concluded that firms and individuals entering into financial relationships with Ituri armed groups may be in violation of the U.N. arms embargo on eastern DRC.<sup>394</sup>

### ***Encouragement of the Gold Trade by the Ugandan Government***

President Museveni has sought to expand the weak economic base in Uganda by increasing exports. Coffee, the most important export commodity in the past, provided some 40 percent of overall export earnings. But a drop in world price for coffee hit the Ugandan economy hard, as did increased international oil prices. Continuing poor revenue return and corruption have further weakened the economy. The impact of joining the East African Community customs union, expected to be beneficial in the long run, may be negative at first.<sup>395</sup> Increase in the export of gold, one of the fastest growing non-traditional export sectors, offers some hope in this otherwise bleak picture. The government believes that trade in minerals has the potential to rival coffee as a source of foreign exchange for Uganda. In January 2004 the Ugandan government signed a \$25 million loan agreement with the World Bank to finance exploration of the country's mineral deposits.<sup>396</sup> Domestic mineral production may at some point substitute for some of the gold imported from Congo, but such a development is a long time in the future.

Since 1999 the Ugandan government has rewarded Ugandan gold exporters for their efforts to promote the trade. In 2002 Uganda Commercial Impex Ltd. received the President's Export Award for best performance in the gold trade sector and Machanga Ltd. placed second in the competition. Hon. Omwony Ojok, the Minister of State in the office of the President responsible for Economic Monitoring, represented the President at the gala awards ceremony, attended also by five other government ministers.<sup>397</sup> The companies were honored for encouraging the export trade and for fulfilling social responsibilities as part of their business. It is not clear how carefully the selection committee examined their business relationships with Congolese traders, themselves linked to armed groups responsible for human rights abuses in Congo.

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<sup>394</sup> Ibid., Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, pages 30-33.

<sup>395</sup> Human Rights Watch interview, World Bank economist, Kampala, July 2004 and diplomatic economic advisors, Kampala, July 2004.

<sup>396</sup> Steven Odeu, "Uganda gets funds to explore minerals," *New Vision*, January 22, 2004.

<sup>397</sup> Ugandan Export Promotion Board, *Export Bulletin*, News Highlights: Presidents' Export Aware (PEA) 2002, Edition 3, Jan-March 2004. Also President Export Award 2002, Evening Programme, December 5, 2003. Ugandan Commercial Impex Ltd also won the Gold Award in 1998 and 1999.

The Ugandan government has proposed tighter controls on gold imports, perhaps in an effort to increase its own revenues. Among the regulations being discussed is one that requires permits for all precious metals imported into Uganda and that imposes an import tax of .5 percent of the purchase price.<sup>398</sup> These regulations have not yet been accepted as law. Stricter regulation of the gold trade in Uganda and other transit countries would assist in stamping out the illegal smuggling and in cutting the link between the gold traders and armed groups who commit human rights abuses. The proposals by the Ugandan government would increase Ugandan revenue and may help somewhat in recording the gold trade coming from the DRC but without requiring further checks such as exit certificates, it is unlikely to curb the trade by illegal smugglers.

### ***Buyers of Tainted Gold***

According to the U.N. panel of experts on the illegal exploitation of Congolese resources, companies who buy gold from Uganda may also be contributing indirectly to human rights abuses in the Congo. After mapping the interconnections between Congolese parties to the conflict, foreign governments, and companies, the panel maintained that some business activities, directly or indirectly, deliberately or through negligence, contributed to the prolongation of the conflict and related human rights abuses.<sup>399</sup> Gold industry experts and companies who trade in gold must, or should be, aware that most of the gold traded from Uganda comes from a conflict zone in the Congo and that it was likely to have been exported illegally.

### ***Switzerland: Unaccounted Gold?***

According to industry experts in Uganda, over 70 percent of the gold exported from Uganda is destined for Switzerland. Switzerland is one of Uganda's main trading partners. According to Ugandan trade statistics, exports to Switzerland jumped from \$29 million in the year 1999 to \$99 million in the year 2000, a record high for trade from Uganda to Switzerland. Although trade decreased to \$70.6 million and then to \$69 million in the following two years, it remained considerably higher than in the years before war began in Congo. According to Ugandan trade figures in 2002, Switzerland was Uganda largest single trading partner receiving over \$69 million worth of goods, with Kenya its second largest trading partner receiving goods valued at \$61.5 million.<sup>400</sup>

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<sup>398</sup> Ugandan Government Draft Mining Regulations 2004, Subsection 3, Section 117.

<sup>399</sup> *Ibid.*, U.N. Panel of Experts reports, April 12, 2001 (S/2001/357) para 215, and October 16, 2002 (S/2002/1146) paras 174 and 175.

<sup>400</sup> Ugandan Bureau of Statistics, "Statistical Abstract 2003", Exports by Region and Country of Destination 1998 – 2002.

It is likely that a large percentage of the trade from Uganda to Switzerland is gold. According to official Swiss information, imports from Uganda, excluding gold, amounted to just over \$11 million in both 2002 and 2003; most of this trade was in coffee.<sup>401</sup> Swiss imports of gold are classified as “sensitive data.” The Swiss government provides only the total amount of gold it imports and exports each year, without producing a breakdown of the country of origin. But Swiss government officials estimated imports from Uganda, to have been approximately \$13 million in 2003 (see table below).<sup>402</sup>

**Table 2:**  
**Swiss Import and Ugandan Export Statistics:**  
**Some Glaring Discrepancies**

| Year   | 2001         | 2002         | 2003         |
|--|--------------|--------------|--------------|
| Swiss imports from Uganda excluding gold   | \$6,965,000  | \$11,405,898 | \$11,637,025 |
| Swiss gold imports from Uganda (unofficial number)   | \$14,315,187 | \$1,684,140  | \$12,631,047 |
| TOTAL Swiss imports from Uganda according to Swiss import statistics (gold plus other imports) | \$21,280,187 | \$13,090,037 | \$24,268,072 |
| TOTAL exports from Uganda to Switzerland according to Ugandan export statistics                | \$99,104,000 | \$70,674,000 | \$69,011,000 |
| <b>Discrepancy</b>   | \$77,823,813 | \$57,583,963 | \$44,742,928 |

*Source: Administration Federale des Douanes (AFD), Commerce Exterieur de la Suisse; and Ugandan Bureau of Statistics. Unofficial figures come from Swiss federal government sources.*

A comparison of Ugandan export and Swiss import statistics in 2001, 2002 and 2003 shows some glaring discrepancies. In 2003 goods from Uganda worth over \$44 million were not registered at the point of entry into Switzerland and were unaccounted for; in 2001 the figure was \$77 million. When questioned about the discrepancies, Swiss customs agents told Human Rights Watch researchers that it was possible the goods had entered Swiss free port zones; areas normally based around airports which effectively

<sup>401</sup> Administration Fédérale des Douanes (AFD), Commerce Extérieur de la Suisse, “Statistiques Selon Les Pays et Marchandises”, 1998, 1999, 2000, 2001, 2002, 2003.

<sup>402</sup> Human Rights Watch interview, Swiss official, Berne, January 26, 2005.

operate outside of Swiss government control.<sup>403</sup> Goods entering such zones are not registered or taxed, are not reflected in Swiss import statistics and are sent to other locations without export duties. As the most valuable commodity imported from Uganda, gold could form a substantial part of the Ugandan goods entering the free port zones. According to one Swiss trade official, Swiss banks are possible candidates who may be buying gold through free port zones.<sup>404</sup> While free port zones are part of Swiss territory, they operate outside of Swiss customs control. A Swiss customs official told Human Rights Watch researchers, “The control of free ports is beyond us.”<sup>405</sup>

Free ports are not transparent and may hide illegal activities. Recognizing these risks, the Swiss government in December 2003 submitted a new Customs Act to parliament to tighten control at free ports. At the time of writing the new act was still under discussion with no consensus on which goods should be more closely monitored by customs agents. But a Swiss customs official told Human Rights Watch researchers that gold was unlikely to be subject to stricter controls under the new law.<sup>406</sup> Were Switzerland to impose stricter controls on gold transiting through free ports, it could facilitate efforts to stop the trade in tainted gold from Congo to other parts of the world.

### *Metalor Technologies SA*

While a large part of the gold traded from northeastern Congo via Uganda is difficult to trace, it is clear that an estimated \$13 million worth of gold entered Swiss territory from Uganda in 2003 and was officially registered as an import.<sup>407</sup> According to research done by Human Rights Watch, some of this gold imported into Switzerland is bought by Metalor Technologies SA based in Neuchâtel, Switzerland, one of the oldest manufacturers of products for the international gold market. Metalor ranks among the leading refiners in the world of gold and other precious metals. In 2003 the company's net sales were \$225 million.<sup>408</sup>

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<sup>403</sup> Human Rights Watch interviews, Swiss customs agents, Berne, January 26, 2005. Free ports also exist in other countries, but control of free ports in Switzerland is considered weaker than that in other European countries, making it attractive for many traders.

<sup>404</sup> Human Rights Watch interview, Swiss trade official, Berne, January 26, 2005. A statement supported by a Ugandan based trader who stated he sold gold to Swiss banks, Human Rights Watch interview with representatives from Uganda Commercial Impex Ltd, July 7, 2004.

<sup>405</sup> Human Rights Watch interview, Swiss customs agent, Berne, January 26, 2005.

<sup>406</sup> Ibid.

<sup>407</sup> Human Rights Watch interview, Swiss industry expert, Berne, January 26, 2005.

<sup>408</sup> “Annual Report 2003”, Metalor Technologies International SA.

A representative of the Ugandan-based gold exporting agency Machanga Ltd., told Human Rights Watch researchers that his company exported all its gold to Metalor.<sup>409</sup> Representatives of Machanga also confirmed to Human Rights Watch representatives that they bought gold from Mr. Omar Oria,<sup>410</sup> a close business associate of Commander Jérôme, based in northeastern Congo. Mr. Oria directly participated in human rights abuses including cases of torture and arbitrary detention carried out by Commander Jérôme and his FAPC armed group as documented by Human Rights Watch (see above). A United Nations group of experts monitoring the arms embargo on eastern DRC also reported that Metalor was a buyer of gold from Machanga.<sup>411</sup> Thus Metalor through its purchases of gold from Machanga may be indirectly involved in a trade that supports an armed group responsible for serious human rights abuses.

In a December 17, 2004 letter responding to an inquiry from Human Rights Watch, Metalor declined to say whether Machanga was a supplier of gold to the company without first seeking Machanga's approval, stating that "disclosing information on our suppliers and certain transactions would be contrary to confidentiality and secrecy obligations imposed on us."<sup>412</sup> It is not clear from this or subsequent correspondence if the company attempted to contact Machanga to obtain such permission.<sup>413</sup> In a meeting with Human Rights Watch on April 21, 2005, a representative from Metalor confirmed the company bought gold from suppliers in Uganda, though the company insisted on retaining confidentiality as to the identity of those suppliers.<sup>414</sup>

In its meeting with Human Rights Watch and in its letters of December 17, 2004 and April 14, 2005, Metalor stated it did not accept goods originating from criminal activity, from criminal or terrorist groups or goods used to finance criminal activities. It claimed to comply with all measures required by a Swiss federal law on money-laundering and the Swiss precious metals control act, including requiring assurances from its suppliers that they owned the goods, that such goods had been acquired legally and that all necessary measures had been taken to prohibit the trade of goods from unlawful

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<sup>409</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004

<sup>410</sup> Human Rights Watch interview, Jigendra Jitu, Machanga Ltd, Kampala, July 8, 2004.

<sup>411</sup> Ibid., Report of the Group of Experts on the U.N. Arms Embargo, January 25, 2005, p. 32.

<sup>412</sup> Dr. Scott Morrison, Chief Executive Officer, Metalor Technologies to Anneke Van Woudenberg, Human Rights Watch, December 17, 2004. Document on file at Human Rights Watch.

<sup>413</sup> Ibid., Also Letter from Dr. Scott Morrison, Chief Executive Officer, Metalor Technologies to Anneke Van Woudenberg, Human Rights Watch, April 14, 2005. Also e-mail from Morrison to Van Woudenberg, February 1, 2004. Documents on file at Human Rights Watch.

<sup>414</sup> Human Rights Watch interview, Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel (Switzerland), April 21, 2005.

origin.<sup>415</sup> In its meeting with Human Rights Watch, the company representative explained that Metalor's client managers regularly visited their suppliers, including any in Uganda, to conduct due diligence checks, though she was unclear as to when the last visit had taken place to the company's suppliers in Uganda.<sup>416</sup>

In an email communication on February 1, 2005, Metalor claimed, "Due diligence [was] carried out by all reasonable and lawful available means (such as governmental bodies, official institutions, diplomatic representations, financial information providers, registries of commerce, etc.)."<sup>417</sup> In its April 2005 meeting with Human Rights Watch, a Metalor representative stated that as part of these checks the company had sought information from authorities such as the Swiss State Secretariat for Economic Affairs (SECO).<sup>418</sup> When questioned about the results of these checks, the Metalor representative explained that such contacts were not always formal or documented but that the company had received no "negative responses" in relation to the trade of gold from Uganda.<sup>419</sup>

Despite these assurances, questions remain about the thoroughness of Metalor's due diligence checks. Since Uganda's domestic gold production is negligible and since Uganda does not import gold from other countries, gold exported from Uganda to Metalor is almost certainly mined in northeastern Congo. When presented with publicly available gold export and mining production statistics from official Ugandan sources, the Metalor representative expressed surprise at the obvious discrepancy.<sup>420</sup> The representative stated Metalor had never seen such statistics and was unaware of any discrepancy, even though the company admitted to having met on more than one occasion with the Ugandan mining commissioner,<sup>421</sup> an individual likely to have been well aware that the vast majority of gold exported from Uganda originated from northeastern Congo as reflected by the statistics published in department's annual report.<sup>422</sup> Metalor stated the information presented by Human Rights Watch during the meeting of April 2005 would be fed into its due diligence process.

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<sup>415</sup> Ibid., Morrison to Van Woudenberg, December 17, 2004 and April 14, 2005. Documents on file at Human Rights Watch. Also Human Rights Watch interview, Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, Switzerland, April 21, 2005.

<sup>416</sup> Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005. Also Ibid., Metalor Annual Report 2003.

<sup>417</sup> Ibid., Morrison to Van Woudenberg, e-mail correspondence, February 1, 2005. Document on file at Human Rights Watch.

<sup>418</sup> Ibid., Morrison to Van Woudenberg, April 14, 2005.

<sup>419</sup> Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005.

<sup>420</sup> Ibid.

<sup>421</sup> Ibid.

<sup>422</sup> Ministry of Energy and Mineral Development, Government of Uganda, Annual Report, 2002.

The Metalor representative stated to Human Rights Watch that the company “believed the gold [it bought] was of legal origin.”<sup>423</sup> Yet the gold traders in Kampala from whom Metalor acquired its gold were clear when interviewed by Human Rights Watch researchers that the gold they bought originated from Congo and that they did not request documentation from their Congolese suppliers such as import and export certificates.<sup>424</sup> Between 2001 and 2004 numerous reports were published, including ones in Swiss newspapers, about the trade in natural resources from the Congo describing the horrific human rights abuses that the revenue helped to finance.<sup>425</sup> In its April 2005 meeting with Human Rights Watch, the representative from Metalor stated the company was unaware of such information and had not heard about a series of public U.N. panel of experts reports published between April 2001 and October 2003 describing in detail how the exploitation of Congo’s resources had funded armed groups in eastern Congo and how the trade in gold from Congo was being funneled through Uganda.<sup>426</sup> In its meeting with Human Rights Watch, the Metalor representative explained that on occasion the company carried out additional checks on its suppliers in circumstances when it noticed ‘red flags’ – information from public or private sources raising questions about a specific country of origin or the ethics of a supplier.<sup>427</sup> Until recently when Metalor was mentioned in a report by a U.N. group of experts monitoring the arms embargo in eastern DRC, it appears no red flags were raised in relation to the gold Metalor bought from its suppliers in Uganda. Metalor representatives did inform Human Rights Watch that they were carrying out further checks with their suppliers in light of the U.N. report.<sup>428</sup>

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<sup>423</sup> Ibid.

<sup>424</sup> Human Rights Watch interviews with representatives from Uganda Commercial Impex Ltd, Machanga Ltd and A. P. Bhimji Ltd, Kampala, July 7 and 8, 2004.

<sup>425</sup> There were numerous public reports about the situation in Ituri and the human rights abuses of armed groups. For reports published in Swiss newspapers see, for example, “Or: la descente aux enfers,” *L’Hebdo*, July 29, 1999; David Haeberli, “Justice : La Suisse bloque 13 millions de dollars issus d’un trafic de minerai congolais,” *Le Temps*, November 30, 2002; Alexis Masciarelli, “Après le départ de l’armée ougandaise, les massacres interethniques reprennent à Bunia,” *Le Temps*, May 12, 2003 ; “Les vraies causes des guerres civiles: Misère ethnique? Non, économique”, *L’Hebdo*, June 19, 2003; “La CPI s’intéressera tout d’abord au Congo. Deux priorités pour le procureur de la CPI : L’Ituri et le business de la guerre”, *La Tribune de Genève*, July 17, 2003. See also Ibid., Reports from Human Rights Watch, March 2001, October 2002 and July 2003; Amnesty International, October 2003; International Crisis Group, June 2003; U.N. Security Council, July 2004 amongst others.

<sup>426</sup> See reports from the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo, April 12, 2001 (S/2001/357), May 22, 2002 (S/2002/565), October 16, 2002 (S/2002/1146), October 23, 2003 (S/2003/1027) plus other addendums.

<sup>427</sup> Ibid., Human Rights Watch interview with Mrs Nawal Ait-Hocine, Head of Legal and Compliance, Metalor Technologies SA, Neuchâtel, April 21, 2005.

<sup>428</sup> Ibid.

Metalor knew, or should have known, that gold bought from its suppliers in Uganda came from a conflict zone in northeastern DRC where human rights were abused on a systematic basis. Under international business norms such as the OECD Guidelines for Multinational Enterprises, to which Switzerland is a party, companies are obliged to encourage suppliers to apply principles of corporate conduct compatible with the OECD Guidelines, including provisions on human rights.<sup>429</sup> The U.N. Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, state that companies “within their respective spheres of activity and influence,”<sup>430</sup> including through their suppliers, have an obligation to promote and ensure respect for human rights. Metalor should have considered whether its own role in buying gold resources from its suppliers in Uganda was compatible with ensuring respect for human rights and it should have actively checked its supply chain to verify that acceptable ethical standards were maintained. In its own annual report, the company reaffirmed its commitment to do so.<sup>431</sup>

Armed groups in Ituri would face serious difficulties in supporting their military operations if they were unable to turn gold into funds to buy arms and other necessities. The chain of Congolese middlemen, Ugandan traders and multinational corporations together generate the revenue stream from which armed groups reap substantial financial benefits. Through any purchases of gold made from this network, Metalor Technologies may have contributed indirectly to the revenue stream that supports armed groups in Ituri who carry out widespread human rights abuses. Any failure to terminate relationships with suppliers in Uganda dealing with armed group leaders in Congo may indirectly implicate Metalor in the human rights abuses these groups were committing.

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<sup>429</sup> Ibid., OECD Guidelines Paragraph II.10 and General Policies, paragraphs 1 and 2. A recent study in the OECD looked specifically at the issue of trade from conflict zones. See OECD Working Party of the Investment Committee, “Conducting Business with Integrity in Weak Governance Zones: Issues for Discussion and a Case Study of the DRC,” November 26, 2004.

<sup>430</sup> Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, E/CN.4/Sub.2/2003/12 (2003), Section A, General Obligations.

<sup>431</sup> Ibid, Metalor Annual Report 2003.



**ANNEX 3.4**

**United Nations Security Council, *Sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2001/128, 12 February 2001**

**(Excerpts)**



## Security Council

Distr.: General  
12 February 2001

Original: English

### **Sixth report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. By its resolution 1332 (2000) of 14 December 2000, the Security Council decided to extend the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 15 June 2001, and endorsed the Secretary-General's proposal to deploy additional United Nations military observers to monitor and verify the implementation of the ceasefire and disengagement plans adopted by the parties to the Lusaka Ceasefire Agreement (S/1999/815, annex).

2. In the same resolution, the Security Council invited the Secretary-General to consult with the Organization of African Unity (OAU) and the parties concerned on the possibility of organizing in February 2001 a follow-up meeting between the signatories of the Lusaka Agreement and members of the Council. In addition, the Council requested the Secretary-General to:

(a) Present a review of the implementation of the current mandate of MONUC, including elements for an updated concept of operations;

(b) Submit proposals on ways to address the situation in the eastern provinces of the Democratic Republic of the Congo;

(c) Submit proposals for a mechanism to follow up on the withdrawal of foreign forces, the disarmament and demobilization of armed groups, the security of the borders of the Democratic Republic of the Congo with Rwanda, Uganda and Burundi, and related issues.

3. The present report is submitted in accordance with these requests and reflects developments since the Secretary-General's fifth report on MONUC of 6 December 2000 (S/2000/1156).

#### **II. Political developments**

4. President Laurent-Désiré Kabila was shot and fatally injured by a member of the presidential bodyguard in Kinshasa on 16 January. I condemn assassination and the use of force as a means of settling political differences. It is gratifying that the other parties concerned have refrained from taking advantage of the situation.

5. On 17 January, Major General Joseph Kabila was entrusted with the powers and responsibilities of Head of State and Commander-in-Chief of the Forces armées congolaises (FAC) by a joint meeting of ministers and senior military officers. After the State funeral of President Laurent-Désiré Kabila, members of the Congolese transitional parliament approved unanimously the Government's nomination of Major General Joseph Kabila as President of the Democratic Republic of the Congo. However, both the rebel groups and some elements of the Congolese political class have rejected the emergence of Major General Kabila as Head of State.

6. On 21 January, the Heads of State of Angola, Namibia and Zimbabwe issued a communiqué in which they undertook to maintain their respective military forces in the Democratic Republic of the Congo and reinforce the security of the population, the Government and foreign citizens, including personnel



government side. The current president of FLC is Mr. Jean-Pierre Bemba, the former leader of MLC. Although Mr. Wamba dia Wamba was said to have been appointed as vice-president, reports suggest that he has been excluded from the FLC leadership following his denouncement of the merger as an agreement of military convenience.

14. Further consolidation on the rebel side has been indicated by a senior member of RCD, Mr. Bizima Karaha, who has announced that RCD and FLC share a common vision on political issues which may lead to the formation of a common front under the same political and military leadership. He predicted that unification would take place within the near future. These developments represent the latest of many efforts on the part of the rebel groups to achieve unification.

### **Inter-Congolese dialogue**

15. During the reporting period, Sir Ketumile Masire has remained committed to fulfilling his responsibilities as neutral facilitator of the inter-Congolese dialogue. He has continued to enjoy the explicit support of the Congolese rebel movements and main political parties and civil society.

16. On 16 December, at the request of the Government of the Democratic Republic of the Congo, President Bongo sponsored a meeting between President Laurent-Désiré Kabila and Congolese opposition groups. Although President Kabila travelled to Libreville, the meeting did not take place owing to the non-attendance of the opposition invitees.

17. While the Government of the Democratic Republic of the Congo has not formally withdrawn its rejection of Sir Ketumile Masire as the neutral facilitator, there have been increasing indications that it is prepared to accept the appointment of a francophone co-facilitator to work with Sir Ketumile. President Joseph Kabila appeared to endorse the arrangement and, in his inaugural speech, requested OAU to help revive the peace process, particularly with regard to the designation of a co-facilitator. However, the leader of RCD later described the President's reference to co-facilitation as a violation of the Lusaka Agreement, which does not provide for such a function.

18. Political parties in the Democratic Republic of the Congo, which have hitherto been silent owing to

the continuing ban on their activities, are becoming vocal in calling for implementation of the Lusaka Agreement, and specifically for the convening of the inter-Congolese dialogue. They generally support the appointment of a francophone co-facilitator. On 29 January, President Joseph Kabila met with representatives of four principal political parties in Kinshasa.

### **III. Military developments**

19. Though much of the country has remained quiet during the reporting period, particularly over the past three weeks, military action was observed in both Equateur province and Katanga in December and early January 2001. Scattered fighting, often involving armed groups, has been reported from the Kivus.

#### **Situation in Katanga**

20. In late November, following attacks by government forces (FAC) in Katanga, RCD and the Rwandan People's Army (RPA) launched a counter-attack which culminated in their capture of Pweto on 6 December. Thousands of combatants and refugees fled into Zambia to escape the fighting. Figures from the Zambian authorities indicate that over 5,000 combatants crossed the border. Subsequently, some 3,000 FAC and 200 Zimbabwean soldiers were disarmed and escorted back into the Democratic Republic of the Congo. Approximately 1,925 combatants, belonging to the Burundian Front pour la Défense de la Démocratie (FDD), evaded disarmament by using barges to cross Lake Mweru and enter the Democratic Republic of the Congo. At present, some 144 disarmed soldiers remain in northern Zambia; 115 are seeking refugee status; and 29 are under investigation for membership of the former Rwandan Armed Forces (ex-FAR), Interahamwe or FDD.

21. Following a meeting in Kinshasa on 22 December between President Laurent-Désiré Kabila, President Mugabe and President Nujoma, President Mugabe warned that the rebels would be forced out of Pweto if they did not leave voluntarily. Subsequently, there was a build-up of Government and allied forces with reports of over 2,000 Angolan, 600 Zimbabwean and 3,000 FAC troops deployed between Kasenga and

Pweto. On the rebel side, six RCD battalions are said to be holding Pweto with two RPA brigades in support.

22. During December and early January, there were numerous claims of ceasefire violations and allegations from both sides that the other was preparing for an offensive. On 28 December, the Permanent Representative of Rwanda to the United Nations, claiming his country had acted in self-defence, wrote to the President of the Security Council to complain of an ongoing campaign of misinformation directed against his country (S/2000/1244). The Permanent Representative reiterated his Government's offer of a 200-kilometre disengagement and its preparedness to withdraw from Pweto if MONUC deployed there. On the same day, the Chargé d'affaires a.i. of the Permanent Mission of the Democratic Republic of the Congo to the United Nations wrote to the President of the Council to inform him that a brigade of RPA, supported by members of the União Nacional para a Independência Total de Angola (UNITA), had launched attacks on Katanga from Zambian territory (S/2000/1245).

23. Since early January, the MONUC Force Commander, General Mountaga Diallo, has been discussing with the Governments and military authorities of the Democratic Republic of the Congo and Rwanda, and with RCD, the Rwandan offer to withdraw from Pweto if MONUC deployed a military observer team to the town. MONUC has in fact prepared a team to be deployed to Pweto. However, despite encouraging signals from the Governments of both the Democratic Republic of the Congo and Rwanda, discussions on the specific modalities of the agreement are still continuing with the military authorities of both sides. RCD has insisted that its concerns should be addressed separately from those of Rwanda.

### **Fighting in Equateur province**

24. In mid-December, MLC began a military offensive across a broad front in northern Equateur, capturing Imese and Befale. Government and allied forces reinforced their positions around Mbandaka. In mid-January, MLC forces attacking Bolomba were repulsed after heavy fighting. Since 18 January, the military situation has become static, with no reports of significant fighting.

### **Eastern provinces**

25. The security situation in parts of the eastern Democratic Republic of the Congo remains highly volatile. RCD has complained that armed groups continue to launch numerous attacks in the Kivus. Although the armed groups responsible for these attacks are not signatories to the Lusaka Ceasefire Agreement, there are persistent reports of their receiving arms and training from FAC. (The situation in the eastern provinces is explored in more detail in paras. 85-88 below.)

26. In the Ituri area, ethnic tension between the Lendu and Hema communities increased dramatically on 19 January when Lendu tribesmen attacked a Ugandan People's Defence Force (UPDF) and an RCD-ML position at Bunia airfield. The fighting resulted in serious casualties and was followed by attacks mounted by the Hema population on Lendu civilians (see paras. 56-57 below).

27. MONUC dispatched a military and humanitarian team to Kampala and Bunia on 24 January. In Kampala, the Ugandan Army Commander accepted that UPDF was responsible for the security of the civilian population in the Bunia area and undertook to make every effort to contain the violence. Since 22 January, MONUC military observers in Bunia have reported the situation in the town to be tense but with UPDF in effective control. MONUC is discussing with the humanitarian agencies follow-up action aimed at improving relations between the two communities.

28. Concern has also been expressed over repeated attacks on the Banyamulenge population in South Kivu. This matter is dealt with in more detail in paragraph 59 below.

### **Kisangani**

29. Pursuant to Security Council resolution 1304 (2000), Rwanda and Uganda have continued to keep their forces at a distance of some 100 kilometres from Kisangani. However, RCD military elements have remained in the city, with its leaders maintaining that security concerns do not allow them to withdraw their forces before the arrival of United Nations troops. The area around Kisangani has been de facto divided into quadrants: RCD occupies the south and west; MLC and UPDF the north-west and the north; and UPDF solely

the east. This dispersal is generally respected, except for isolated skirmishes usually between RCD and MLC/RCD-N in the diamond mining area to the north of the city.

### **Implementation of disengagement plans**

30. The military chiefs of staff of the parties, with the exception of MLC, ratified the detailed sub-plans for disengagement and redeployment in Harare on 6 December. The MLC delegate had received instructions not to sign the document, as it did not contain a reference to the inter-Congolese dialogue. Subsequently, a spokesman for RCD indicated that its forces, too, would not comply with the disengagement plans unless President Laurent-Désiré Kabila opened talks on the formation of a transitional government and disarmed pro-government militias in the eastern Democratic Republic of the Congo.

31. Pursuant to the Harare disengagement plan, MONUC received notification from Angola, the Democratic Republic of the Congo, Namibia, Rwanda, Uganda and Zimbabwe that executive orders had been issued to their military forces to begin the disengagement process. No notification has yet been received from the rebel movements.

32. The Harare disengagement plan stipulated that the military forces of the parties would undertake a 15-kilometre disengagement over a two-week period starting 21 January. None of the parties has yet complied. There are indications that the implementation of the disengagement plans has become dependent on progress in convening the inter-Congolese dialogue envisaged by the Lusaka Agreement, as the Congolese rebel movements insist that the two processes — military and political — are inextricably linked. Nonetheless, MONUC is proceeding on the assumption that the parties will indeed carry out their disengagement plan.

### **Withdrawal of foreign forces**

33. On 9 January, President Laurent-Désiré Kabila brokered talks in Libreville between President Buyoya and Jean-Bosco Ndayikengurukiye, the leader of FDD, the main Burundian rebel group. Subsequently, Leonard She Okintundu, Foreign Minister of the

Democratic Republic of the Congo, informed the Kinshasa diplomatic corps that both parties had agreed to withdraw their forces from the Democratic Republic of the Congo. On 23 January, FDD made it known that the death of President Laurent-Désiré Kabila had not affected its willingness to continue talks with the Burundian Government. In a statement, the Burundian Government confirmed that its meetings with FDD had been successful and would be pursued.

34. Resolutions 1304 (2000) and 1332 (2000), in which the Security Council demanded the withdrawal of Rwandan and Ugandan forces from the territory of the Democratic Republic of the Congo without further delay, in conformity with the timetable of the Lusaka Agreement and the Kampala disengagement plan, have yet to be implemented in full. Reports indicate the presence of approximately 20,000 RPA and 10,000 UPDF troops in the Democratic Republic of the Congo and there has been no clear indication of any significant reduction in force levels. Senior Rwandan officials have continued to emphasize their country's security concerns, and to demand that measures be taken to disarm and demobilize the armed groups in the eastern provinces of the Democratic Republic of the Congo before the withdrawal of RPA proceeds. Ugandan officials, including President Museveni, have recently indicated that, following the defeat of Allied Democratic Forces (ADF) rebels, the underlying objective of their intervention has been achieved.

35. On the government side, it is estimated that there are approximately 12,000 Zimbabwean, 7,000 Angolan and 2,000 Namibian troops deployed in the Democratic Republic of the Congo. Since my last report, the force levels of the Southern African Development Community (SADC) allies have increased in response to the military reversals in Katanga and the security concerns in Kinshasa and Lubumbashi following the assassination of President Laurent-Désiré Kabila. There are persistent allegations from Rwanda that FAC contains large numbers of ex-FAR and Interahamwe fighters.

### **IV. Cooperation with the Joint Military Commission (JMC)**

36. The operations of JMC have continued to be hindered by a lack of resources. OAU has advised JMC

Resident Representative/Resident Coordinator in the Democratic Republic of the Congo would also be the Humanitarian Coordinator for the country in order to ensure the most effective response to the situation. At the subnational level, the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat (OCHA) will continue to maintain a Coordinator for the eastern Democratic Republic of the Congo based in Goma. In a related development, the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat will be opening an office in Lubumbashi.

52. In South Kivu, the National Immunization Days 2001 are being prepared, following the United Nations Children's Fund (UNICEF)/WHO workshop on national planning which was held in Goma in mid-December. The workshop planned by the Office for the Coordination of Humanitarian Affairs of the United Nations Secretariat to take place in Kisangani from 9 to 12 December was postponed owing to lack of governmental participation.

53. The Governments of the Republic of Congo and the Central African Republic have continued to express concern that the fighting in Equateur, especially in the immediate border areas, is affecting their stability. In particular, refugees continue to enter both countries and maritime traffic on the Ubangui River has been interrupted causing heavy economic losses. There have also been persistent rumours of MLC elements infiltrating down the Ubangui on the west bank towards the confluence of the Congo and Ubangui rivers:

## VII. Human rights

54. The human rights situation in the Democratic Republic of the Congo remains a cause of serious concern. Numerous human rights violations have been continuing with impunity, compounded by renewed outbreaks of political and ethnic tensions. Some of these take the form of clashes between various armed groups and ethnic groups, including the Hema and Lendu in the Ituri district, and the Banyamulenge in South Kivu. The creation by the Government of armed self-defence groups (Forces d'Auto-défense Populaire (FAP)) has also caused unease.

55. Widespread killings and the destruction of property, extrajudiciary executions and forced disappearances, arbitrary arrests and illegal detention

of local staff members of international organizations, civil society, business leaders and foreigners living in the Democratic Republic of the Congo, as well as serious restrictions on the freedom of the press and of movement, have characterized the situation recently.

56. From 29 to 31 January, a delegation of the Field Office of the United Nations High Commissioner for Human Rights undertook a mission to Bunia. The delegation was able to collect first-hand information and interview eyewitnesses. On the basis of these preliminary findings, the Office of the United Nations High Commissioner for Human Rights team confirmed that a massacre of ethnic Lendu had been carried out by ethnic Hema militias in Bunia on 19 January. At least 200 people were killed and some 40 wounded. The majority of the victims were civilians, including women and children. Some of them were killed with machetes and some decapitated. Some of the bodies were thrown into open latrines. UPDF troops stood by during the killings and failed to protect the civilians.

57. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, Mr. Roberto Garretón, issued on 26 January a press release condemning the massacre in Bunia. He called on the Government of Uganda and FLC to order their troops immediately to protect non-combatants and civilians and to launch investigations of the above-mentioned incident with a view to identifying those responsible and bringing them to justice.

58. In addition, serious human rights violations were also reported in the Kivus following the repeated attacks and retaliation by various armed groups. In Bukavu, the local authorities have arrested representatives of civil society and other civilians. Reports have been received that some of the arrested persons have been tortured.

59. Serious inter-ethnic tensions have also been reported in South Kivu Province. According to some reports, massacres of the Banyamulenge population have taken place. Human rights staff from MONUC intend to visit the area to evaluate the situation on the ground, sensitize the local authorities on the alarming reports received and propose further action to be taken to resolve the crisis.

60. In the Government-controlled areas, the representatives of civil society are also subjected to harassment, arbitrary arrest and illegal detention. Recently in Kinshasa, four leaders of the civil society,

and members of a political party and of business were arrested and detained without cause. Journalists working for private media can no longer carry out their functions freely. A recent decision of the Minister of Communications has prohibited the publication of more than 100 local newspapers for non-compliance with government legislation.

61. Cases of arbitrary arrests, summary and extrajudiciary executions are still frequently reported. A recent example is the case of Commander Masasu, a senior army officer arrested for allegedly planning a coup against the late President. The Government has continued to deny reports that Commander Masasu was executed in December. Several other military personnel and civilians from the Kivus and others close to Masasu have also been arrested and detained. These included a local staff member of the Office of the United Nations High Commissioner for Human Rights in the Congo who was arrested in Kinshasa on 3 January and held by DEMIAP (Détection militaire des activités anti-patrie) until his release on 10 January, with serious restrictions on his freedom of movement.

62. The Military Court continues to apply the death penalty. Many defendants are being arbitrarily condemned to death. Recently, on 11 December, the bodyguard of the Chief of Staff of the Police, was condemned to death by this special court. He was accused of having broken into the residence of the Governor of the Central Bank of the Congo even though he insisted that he was innocent. He was executed the following day with seven others from the Central Prison of Kinshasa without having been given a chance to appeal according to conventional international human rights norms. However, in January another suspect was arrested for the same offence.

63. Continuing human rights violations, coupled with the absence of democratic reforms, have brought the country to a political standstill. Even as many members of the opposition are being freed from detention centres, many leaders of the political parties live abroad to avoid harassment and restrictions.

64. Against this background, there have been two positive developments since the visit in October 2000 of the United Nations High Commissioner for Human Rights, Mrs. Robinson, and the commitment made then by the Government of the Democratic Republic of the Congo to improving the human rights situation. Firstly, the Government released 900 detainees, including over

200 political prisoners and journalists. Secondly, the new President has announced that respect for human rights, the security of the individual and of property, the reform of military justice and the constitutionality of governmental action will be the priorities of his Administration. Effective immediately, the jurisdiction of the military courts will be restricted to matters falling under the code of military justice.

## VIII. Child protection

65. The situation relating to the recruitment of children into armed forces and various warring groups has not improved significantly during the reporting period. Owing to the growing protest of non-governmental organizations, UNICEF and MONUC, RCD has halted its military recruitment campaign in urban areas. However, RCD has contested the allegation that it was recruiting child soldiers and indicated that the young people had joined the movement of their own accord. They were not deployed to the front lines. However, information received from other sources indicates that recruitment is continuing in rural areas of Kivu, including Kahele, Idjwi Island, Musongati and Rugano. It has also been reported that all newly recruited children are transported to camps in Masisi for military training. The Mushaki camp is believed to have received over 3,000 newly recruited young soldiers, more than 60 per cent of whom are under age 18. MONUC has sought and received from RCD permission to visit the camps. It is hoped that better RCD cooperation with MONUC and UNICEF can lead to the implementation of RCD's 15 May decision to start demobilizing child soldiers.

66. As indicated in my 6 December 2000 report, a considerable number of Congolese children were taken from the Bunia, Beni and Butembo region, apparently for military training in Uganda (para. 75). Concern has been expressed at the possibility that these children will be deployed back to the Democratic Republic of the Congo as soldiers. As the present report was being finalized, information was received that **600 children** would be transferred to the custody of humanitarian organizations next week.

67. The late President Kabila had granted access to the military camps for the initiation of the disarmament, demobilization and reintegration process. This is a first step towards the implementation of the 9 June decree on demobilization. UNICEF has

established a working agreement with the local branch of an international NGO, the Bureau International Catholique de l'Enfance (BICE), as the major partner for the process, which will be undertaken in collaboration with the Government.

## **IX. Financial aspects**

68. The General Assembly, by its resolution 54/260 A of 7 April 2000, granted me commitment authority, with assessment, in the amount of \$200 million to cover the Mission's immediate requirements and to enable it to initiate logistic preparations for the phased deployment of the formed military personnel. By its subsequent resolution 54/260 B of 15 June 2000, the Assembly, taking into account the amount of \$58.7 million committed for MONUC during the period ending 30 June 2000, authorized me to use during the period beginning 1 July 2000 the amount of \$141.3 million representing the balance of the commitment authority provided for MONUC in its resolution 54/260 A.

69. Should the Security Council adopt the draft revised concept of operations for MONUC contained in paragraphs 71 to 84 below, the related immediate costs will be met from within resources already approved by the General Assembly for the current financial period. With regard to the financial period 2001-2002 beginning on 1 July 2001, I shall seek the necessary resources for MONUC from the Assembly during its resumed fifty-fifth session.

70. As at 31 January 2001, unpaid assessed contributions to the MONUC special account amounted to \$79.7 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to \$2,652.4 million.

## **X. Next steps**

### **Updated concept of operations**

71. On the basis of the experience gained since September 1999, when MONUC was first deployed to the Democratic Republic of the Congo, the Secretariat has developed a revised draft concept of operations for a deployment of military personnel to monitor and verify actions taken by the parties in compliance with the disengagement and redeployment plan they signed

at Harare on 6 December. The updated draft concept was elaborated during a visit of Department of Peacekeeping Operations planners to MONUC between 8 and 19 January.

72. Given the fragile ceasefire, the size of the country and the difficulties of access and mobility beyond major towns, the concept of operations is based upon a gradual build-up of capability that encourages the parties to cease hostilities, positions MONUC to respond in a timely and effective manner once the parties begin the disengagement and redeployment process, and minimizes risks to United Nations personnel.

73. Simultaneously, the measures proposed to be taken by MONUC can set in place the conditions for subsequent expansion of the mission for possible later tasks in the eastern provinces.

74. The revised concept of operations has four phases. During the preparatory phase, which is now under way, MONUC will make maximum use of its existing resources to build on its presence in the Democratic Republic of the Congo by deploying further military observer teams and redeploying others to establish sector headquarters at Kisangani, Mbandaka, Kananga and Kalemie.

75. These sector headquarters are an integral part of the command, control and communications infrastructure that will enable MONUC to coordinate the additional military observer teams required for verification and monitoring of the disengagement and redeployment. The four regional joint military commissions (currently located at Lisala, Boende, Kabinda and Kabalo) will be relocated with the MONUC sector headquarters to facilitate the close liaison, coordination and confidence-building required to effect the verification and monitoring process. The regional joint military commissions have requested that MONUC provide them with limited logistic support to enable them to fulfil their functions.

76. The draft concept proposed in the present report envisages the deployment of up to 550 military observers. It will also be necessary to deploy up to 1,900 armed personnel to guard equipment, facilities and supplies located at the sector headquarters and support bases. Two riverine units totalling some 400 troops are also envisaged, as well as the necessary rotary and fixed-wing air assets. At least initially, all deployment and sustainment are expected to take place



**ANNEX 3.5**

**Human Rights Watch, *Ituri: "Covered in Blood". Ethnically Targeted Violence in Northeastern DR Congo*, Vol. 15, No. 11 (A), July 2003**



# DEMOCRATIC REPUBLIC OF CONGO

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Vol. 15, No. 11 (A) - July 2003

I hid in the mountains and went back down to Songolo at about 3:00 p.m. I saw many people killed and even saw traces of blood where people had been dragged. I counted 82 bodies most of whom had been killed by bullets. We did a survey and found that 787 people were missing – we presumed they were all dead though we don't know. Some of the bodies were in the road, others in the forest. Three people were even killed by mines. Those who attacked knew the town and posted themselves on the footpaths to kill people as they were fleeing.

-- Testimony to Human Rights Watch

## **ITURI: "COVERED IN BLOOD"** **Ethnically Targeted Violence In Northeastern DR Congo**

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**“You cannot escape from the horror”**

This story of fifteen-year-old Elise is one of many in Ituri. She fled one attack after another and witnessed appalling atrocities. Walking for more than 300 miles in her search for safety, Elise survived to tell her tale; many others have not.

*I am fifteen years old and my father is Hema while my mother is Nande. I was in Komanda in August 2002 when Ngiti fighters attacked the town. They were killing people especially the Hema. I hid with my family in the forest but they found us. There were six of them in civilian clothes with axes and machetes. I saw people being killed, men, women and children. Then it was our turn. They asked us what ethnic group we were. We said Nande. They did not believe us and said they would kill us. They took us one by one. They killed my mother, father and older brother. Then they took me and cut my wrist, my neck and both shoulders. They thought I was dead, so they left me. I think more than 200 people were killed that day, mostly Hema and Gegere.*

*I managed to get up and find a hospital in Komanda. It took me about five hours. I had to walk six miles to get there. I was all alone. At the hospital they treated my hand and neck. I spent some time in the hospital before the Hema militia decided to take me to the bigger hospital in Nyakunde. I spent one month there or so, and then on September 5 the Ngiti attacked that town as well. They killed many people. This time it was the Ngiti, Lendu, and the APC soldiers. I hid in the operating room with other Hema people. They were killing everybody leaving only Nande and those who were not Hema. I did not know what to do. I told them I was Nande and I managed to escape. Along with about 50 others we were able to run away.*

*I wanted to go far away from the killing and so I walked to Mambasa [about 200 miles away]. I went to the white priest, who arranged for me to get treatment in Mambasa hospital. Another woman also helped to look after me. But then in October, Mambasa was also attacked by the Effaceurs [MLC and RCD-N troops]. They were shooting from morning till evening. We fled into the forest. They looted our things. They raped many girls. I spent about one month in the forest. They killed four people in Mambasa. They were killed under a tree near the house of the commissaire. They were buried in a mass grave. I found the bodies decomposing. I fled again to Mayuano, some 20 miles away, but the Effaceurs reached there too. So I went to Teturi where they also attacked and then to Byakato. I continued on to Mangina where I stayed.*

*Will this killing ever stop?*

*(Human Rights Watch interview, Mangina, February 2003)*

# DEMOCRATIC REPUBLIC OF CONGO

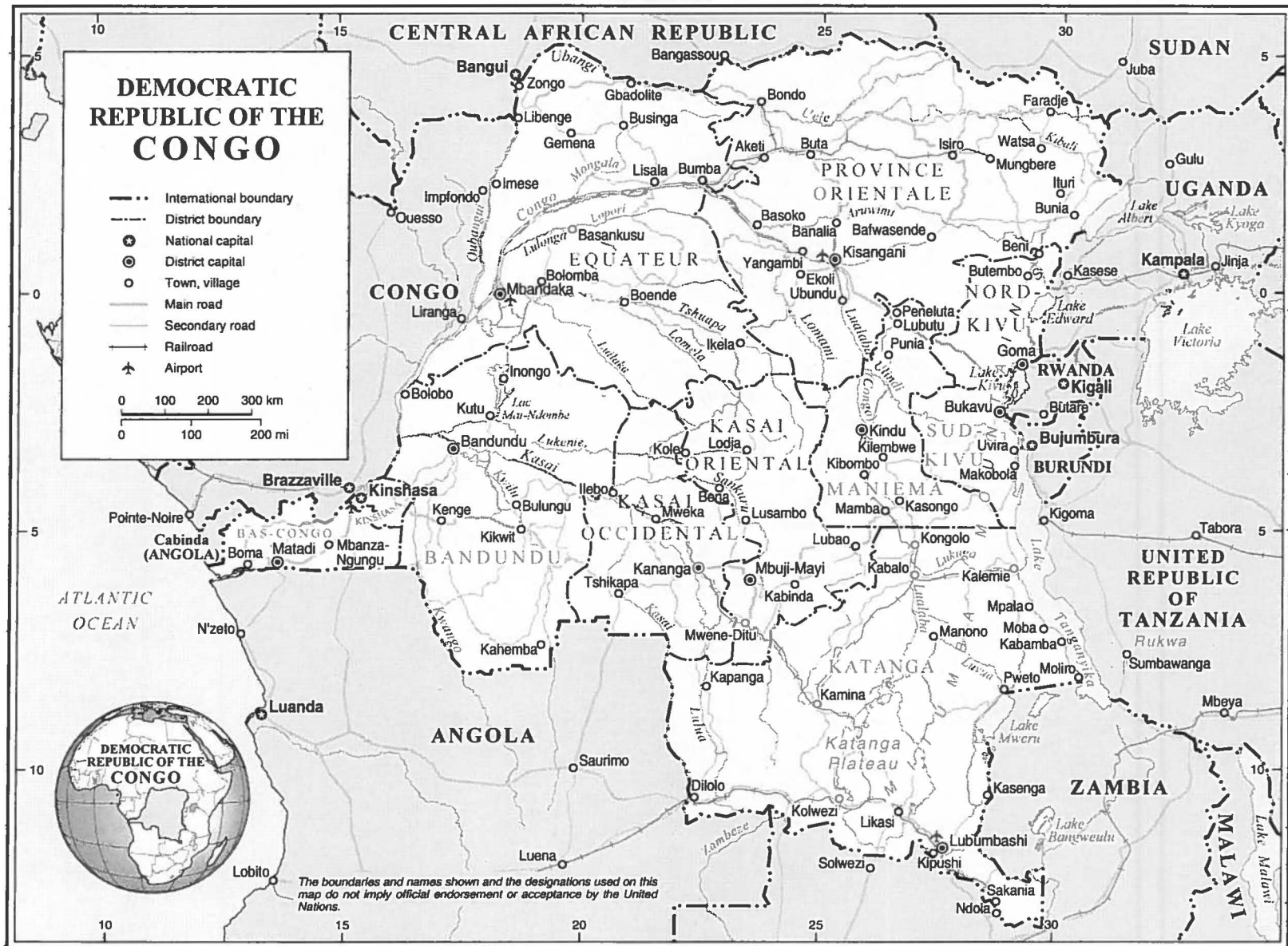
## ITURI: "COVERED IN BLOOD" Ethnically Targeted Violence In Northeastern DR Congo

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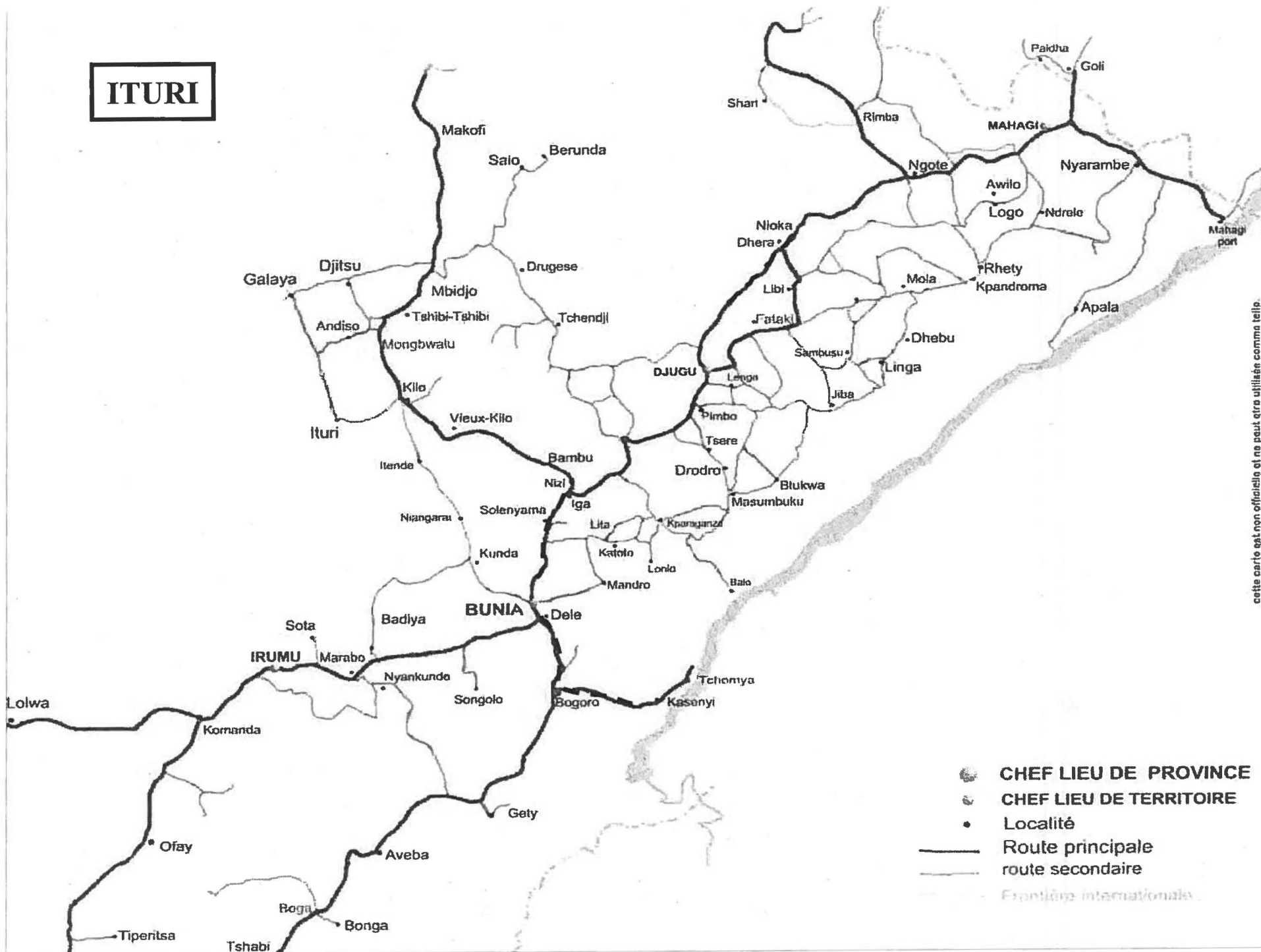
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## LIST OF ACRONYMS

|           |  |
|-----------|--|
| APC:      | Congolese Popular Army, armed wing of the RCD-ML (Armée Populaire Congolaise)  |
| FAC:      | Congolese Armed Forces (Forces Armées Congolaise)  |
| FAPC:     | People's Armed Forces of Congo (Forces Armées Populaire du Congo)  |
| FIPI:     | Front for Integration and Peace in Ituri (Front pour L'Integration et Paix en Ituri)                                   |
| FLC:      | Front for the Liberation of Congo (Front de Libération du Congo)   |
| FNI:      | Front for National Integration (Front Nationalist et Integrationist)   |
| FPDC:     | Popular Force for Democracy in Congo (Force Populaire pour la Démocratie du Congo)                                     |
| FRPI:     | Patriotic Force of Resistance in Ituri (Force des Resistance Patriotique d'Ituri)                                      |
| ICC:      | International Criminal Court   |
| IEMF:     | Interim Emergency Multinational Force  |
| IPC:      | Ituri Pacification Commission  |
| LRA:      | Lords Resistance Army  |
| MLC:      | Movement for the Liberation of Congo (Movement Pour la Liberation du Congo)  |
| MONUC:    | United Nations Organization Mission in the Democratic Republic of Congo  |
| PRA:      | People's Redemption Army   |
| PUSIC:    | Party for Unity and Safeguarding of the Integrity of Congo   |
| RCD-GOMA: | Congolese Rally for Democracy-Goma (Rassemblement Congolais pour la Démocratie-Goma)                                   |
| RCD-ML:   | Congolese Rally for Democracy-Liberation Movement (Rassemblement Congolais pour la Démocratie-Mouvement de Libération) |
| RCD-N:    | Congolese Rally for Democracy- National (Rassemblement Congolais pour la Démocratie- National)                         |
| RPA:      | Rwandan Patriotic Army   |
| UPC:      | Union of Congolese Patriots (Union des Patriots Congolais)   |
| UPDF:     | Ugandan People's Defence Forces  |



# ITURI



ceste carte est non officielle et ne peut être utilisée comme telle.

- CHEF LIEU DE PROVINCE
- CHEF LIEU DE TERRITOIRE
- Localité
- Route principale
- route secondaire
- - - Frontière internationale



## I. SUMMARY

Ituri is often described as the bloodiest corner of the Democratic Republic of Congo (DRC). Despite three peace agreements purportedly ending the five year-old Congolese war, fighting in northeastern DRC intensified in late 2002 and early 2003. In early May 2003, hundreds of civilians were slaughtered in the town of Bunia and tens of thousands of others were forced to flee. Some sought shelter near the United Nations compound desperately looking for protection from the violence. While the international community focused on the town of Bunia, massacres continued in other parts of Ituri away from media attention. As one witness described it, "Ituri was covered in blood."

Based on information gathered by its researchers and on other reports, Human Rights Watch estimates that at least 5,000 civilians died from direct violence in Ituri between July 2002 and March 2003. These victims are in addition to the 50,000 civilians that the United Nations estimates died there since 1999. These losses are just part of an estimated total of 3.3 million civilians dead throughout the Congo, a toll that makes this war more deadly to civilians than any other since World War II.

Armed groups have committed war crimes, crimes against humanity, and other violations of international humanitarian and human rights law on a massive scale in Ituri. Assailants have massacred unarmed civilians, often solely on the basis of their ethnicity, killing scores and sometimes hundreds of civilians in each such attack. In one of several such massacres documented by Human Rights Watch researchers, Ngiti combatants together with soldiers of the Congolese Popular Army (Armée Populaire Congolaise, APC) of Mbusa Nyamwisi killed at least 1,200 Hema and Bira children, women and other civilians in Nyakunde. Over a ten-day period assailants carried out a well-planned operation, systematically slaughtering and often torturing civilians in house-to-house searches and executing hospital patients still in their beds. Many other massacres, especially those that occurred in more remote areas, were never even reported.

Armed groups also committed summary executions, forcefully abducted persons whose whereabouts remain unknown and arbitrarily arrested and unlawfully detained others, some of whom they subjected to systematic torture. Survivors told Human Rights Watch researchers that the Hema Union of Congolese Patriots (UPC) conducted a "man hunt" for Lendu and other political opponents shortly after taking power in August 2002. Many Lendu were arrested. Others fled or went into hiding, afraid to walk openly in the streets of Bunia. According to witnesses, senior UPC military officers were in charge of two prison areas that became notorious places of summary execution and torture.

Combatants of armed groups also committed rapes and engaged in such inhumane acts as mutilations and cannibalism, a practice meant to bring ritual strength to perpetrators and to inspire terror in opponents.

All groups have recruited children for military service, some as young as seven years old, subjecting them to the risks and rigors of military operations. As the war intensified, the forced recruitment of children increased so dramatically that observers described the fighting forces as "armies of children."

More than 500,000 people have been forced to flee from their homes in Ituri often encountering further violence in their flight. Members of armed groups have looted many of these homes and have sometimes burned down entire villages, destroying them to discourage any return. Armed political groups and their outside backers have violated international humanitarian law by deliberately preventing humanitarian agencies from delivering assistance to people whom they have defined as their enemies. In the last year, there have been more than thirty cases where humanitarian workers have been detained, threatened, beaten or expelled from Ituri. The most serious attack was the murder of six staff of the International Committee of the Red Cross in April 2001, an incident with wide ramifications further documented in this report.

Perpetrators of these crimes are rarely punished. According to information available to Human Rights Watch researchers, Hema, Lendu and other armed groups have not investigated any of the abuses described in this report nor have they held accountable those responsible for them. In those few cases where political movements have

bowed to local or international pressure and have tried alleged perpetrators, the proceedings have not met international fair trial standards.

The war in Ituri is a complex web of local, national, and regional conflicts that developed after a local dispute between Hema and Lendu was exacerbated by Ugandan actors and aggravated by the broader international war in the DRC. National rebel groups such as the Congolese Liberation Movement (Mouvement pour la Libération du Congo, *MLC*), the Congolese Rally for Democracy-Liberation Movement (Rassemblement Congolais pour la Démocratie-Mouvement de Libération, *RCD-ML*) and the Congolese Rally for Democracy-Goma (Rassemblement Congolais pour la Démocratie-Goma, *RCD-Goma*) have supported local militia in their conflicts as a way to expand their own base of power in the DRC transitional government or perhaps even to derail negotiations. These national groups, as well as local ethnic groups in Ituri, have been and, in some cases, still are supported by the Ugandan, Rwandan and DRC governments.

Ituri is now the battleground for the war between the governments of Uganda, Rwanda and the DRC which have provided political and military support to local armed groups despite abundant evidence of their widespread violations of international humanitarian law. In doing so and in failing to exercise their influence over them to bring such abuses to an end, they share responsibility for these crimes. International leaders and the UN Security Council regularly denounce the crimes, but have also failed to end them or to deliver justice for them.

Uganda, the occupying power in Ituri from 1998 to 2003, failed in its obligation under international humanitarian law to protect the civilian population. The Ugandan authorities played a direct role in political and administrative changes in Ituri, stimulating new political parties and militia groups to form. As this conflict expanded to encompass more people and wider areas, Uganda used it as a pretext to remain in the resource-rich area, exploiting its minerals and commerce.

The availability of political and military support from external actors, whether national governments or rebel movements, encouraged local leaders to form new groups, generally based on ethnic loyalty. Some of these groups advocated increasingly extreme ethnically based positions. Leaders of these groups often set their own agendas and readily switched patrons as their interests dictated. In this fast-changing scene there was one constant: the abuses committed against the civilian population.

The conflict in Ituri is important not just because of the extent of the suffering and destruction imposed on local people, but also because of these links with broader struggles. The complex mix of local, national, and regional conflicts exists also in the Kivus, where civilians have suffered from massacres and other grave abuses, and it may develop elsewhere in the DRC. The continuation of this kind of local level combat endangers the peace process throughout the country and beyond.

Until recently, the conflict in Ituri has been largely ignored by the international community. Despite information to the contrary, some UN member states and UN officials viewed Ituri as merely a "tribal war" not related to the broader war in the DRC. Between 1999 and April 2003 the U.N. Organization Mission in the DRC (MONUC) had only a small team of fewer than ten observers covering this volatile area of some 4.2 million people. MONUC forces were urgently increased to several hundred in April 2003, but they had no capability to protect thousands of civilians who fled to them for protection when fighting again broke out between opposing militia groups in early May. The UN Security Council authorised an Interim Emergency Multinational Force with a Chapter VII mandate to protect civilians and UN staff in the town of Bunia for a short period while MONUC reinforced its presence. This decision, while helpful to residents of the town, has left tens of thousands of civilians outside Bunia unprotected and at the mercy of armed groups who continue to fight. At the time of publication, Human Rights Watch continues to receive reports of massacres in Ituri.

This report results from fieldwork done by two Human Rights Watch researchers in February 2003, along with follow-up research up until late June, focusing on ethnically targeted violence, violations of international humanitarian law, and the role of foreign armies in Ituri. It is based on investigations in Bunia, displaced persons camps north of Beni, and western Uganda border areas. Human Rights Watch acknowledges with gratitude and

respect the assistance given its researchers by Congolese human rights organizations and numerous other groups and individuals who took great risks to provide information. For their safety we have withheld their names and details necessary to protect their identities.

## II. RECOMMENDATIONS

### **To the Ugandan, Rwandan and DRC Governments:**

- Provide no military, financial, or other assistance to armed groups that have committed serious violations of international humanitarian and human rights law in Ituri. This should include Lendu, Ngiti and Hema militias, parties such as the UPC and PUSIC, as well as the RCD-ML, RCD-N and the MLC. Use your influence with these groups to persuade them to halt these abuses.

### **To the Ugandan Government:**

- Investigate alleged violations of international human rights and humanitarian law by Ugandan forces and bring to justice those accused of having committed such crimes or of having facilitated or tolerated the commission of such crimes by local groups over which they exercised control.

### **To the DRC Government:**

- Make the development of an effective, independent and impartial national justice system a priority, focusing efforts first in areas where grave violations of international human rights and humanitarian law have been committed.
- Pass the necessary legislation implementing the establishment of the International Criminal Court. Request the prosecutor of the International Criminal Court (ICC) to conduct a preliminary examination of those cases within the jurisdiction of the court.
- Request that the U.N. Security Council establish a judicial mechanism to prosecute the most serious violations of international humanitarian law that are outside the jurisdiction of the ICC.

### **To the Hema, Lendu, Ngiti and Other Armed Political Groups:**

- Direct your combatants to adhere to international humanitarian law in all military operations, particularly as it relates to the protection of civilians and the provision of humanitarian aid. Investigate alleged violations of international humanitarian law, including those described in this report, and hold combatants accountable for them.
- Stop the recruitment and training of children under the age of eighteen and disarm, demobilize, rehabilitate and return to their homes all such children.

### **To the United Nations:**

- The UN Security Council should strengthen the MONUC mandate to one based on chapter VII that allows for the robust use of force by MONUC troops in protection of the civilian population throughout the DRC. Provide the force with adequate numbers of troops and the necessary resources and equipment so that it can fulfill its mandate, particularly with regard to the protection of civilians.
- Urge the commander of the Interim Emergency Multinational Force to interpret the mandate accorded by the Security Council in resolution 1484 to ensure the full protection of civilians both inside and outside of Bunia.
- In follow up to resolution 1468, the Security Council should establish a credible and effective international justice mechanism for the DRC to investigate and prosecute grave violations of international humanitarian law committed by all parties, including citizens of countries other than the DRC from 1996 to July 2002.
- The UN secretary general should establish a team of MONUC human rights investigators in Ituri with sufficient resources to document and publicly report on violations of international human rights and humanitarian law.
- The High Commissioner for Human Rights should establish a field office in Bunia to assist the MONUC human rights team in monitoring and publicly reporting on human rights violations and to strengthen local human rights organizations.

- Within the context of the World Bank coordinated regional demobilization program, UNICEF should support the demobilization, disarmament and re-integration of child soldiers under the age of 18 from all armed forces or groups regardless of ethnicity and political affiliation.

**To Donor Governments:**

- Exert political, diplomatic, and economic pressure on the Ugandan, Rwandan and DRC governments to dissuade them from supporting local armed groups responsible for crimes against humanity and other serious violations of international humanitarian and human rights law. Publicly denounce violations of international human rights and humanitarian law, including recruitment of child soldiers, by all local armed political groups and their backers in Ituri and insist upon accountability for the perpetrators of such crimes.
- Support efforts in the Security Council to establish a credible and effective international justice mechanism to investigate and prosecute grave violations of international humanitarian law by all parties to the DRC war, including those who are not citizens of the DRC.

**To the Office of the Prosecutor of the International Criminal Court:**

- As set out under article 15 of the Rome Statute of the International Criminal Court, initiate an investigation proprio motu by undertaking a preliminary investigation of serious crimes committed in Ituri within the presumptive jurisdiction of the ICC for possible prosecution.

### III. CONTEXT: EXTERNAL ACTORS

#### The Peace Process and Ituri

The second Congo war began in 1998 and pitted the DRC government, supported by Angola, Zimbabwe, and Namibia, against several rebel movements backed by Uganda, Rwanda, and Burundi. In 1999 the major parties to the war signed the Lusaka Peace Accords, resulting in the deployment in 2000 of a United Nations force, the U.N. Organization Mission in the Democratic Republic of the Congo (MONUC) to monitor arrangements for ending the conflict. But the accords were not respected and the DRC was in effect divided among four regimes, each of which depended on foreign troops to survive. After further negotiation, the DRC government reached an accord on future political arrangements with two of the three major rebel movements, the MLC and RCD-ML.<sup>1</sup> Known as the Sun City accord, the agreement was signed in April 2002 without the signature of the third important rebel movement, the RCD-Goma.

After further international pressure and shuttle diplomacy, the government of the DRC signed bilateral accords with Rwanda (July 2002) and with Uganda (September 2002), paving the way for withdrawal of their troops. The Rwandan soldiers left in October and Ugandan troops began withdrawing soon after, although some stayed on.<sup>2</sup> In early 2003 Uganda briefly increased the number of its soldiers in Ituri, but under significant international pressure it started its final withdrawal of troops in May. In April 2003 RCD-Goma joined the other DRC parties to the conflict in the All Inclusive Agreement on the Transitional Government, meant to settle interim political arrangements.

Despite the agreements and the troop movements, the war in Ituri intensified as local surrogates carried on the battles of the national and international actors.

#### RCD-ML and Its Links with Ethnic Groups in Ituri

Links between the RCD-ML and ethnic groups form one strand of the complex political fabric in Ituri. The RCD-ML split off from the original RCD in 1999 and moved its base from Kisangani to Bunia. Mbusa Nyamwisi sought to oust the first RCD-ML president, Wamba dia Wamba, from his post. During their year-long struggle in 2000 each appealed to ethnic groups for support, with Wamba relying on the Lendu, and Mbusa Nyemwisi, together with Hema businessman Tibasima Ateenye, drawing strength from the Hema. Ethnically-based militia, incorporated into the RCD-ML forces, supported their chosen candidates, sometimes by force of arms. Mbusa Nyamwisi triumphed and Wamba left the scene. Nyamwisi, himself a Nande, then began fostering ties with the Lendu. In early 2002, he named Jean-Pierre Molondo Lompondo, an outsider from Kasai, as governor of Ituri and allowed him to take control of the RCD-ML forces, thus limiting the power of Thomas Lubanga, a leading Hema member of the movement and nominally his minister of defense. As Nyamwisi depended more on the Lendu, he increasingly alienated his former supporters among the Hema. In April 2002, Nyamwisi's bodyguard was assassinated, a crime widely attributed to Lubanga. Skirmishes followed between those RCD-ML troops, known now as the Congolese Popular Army (Armée Populaire Congolaise, APC), who supported Nyamwisi, and combatants backing Lubanga. Lubanga and his forces, identified with the Union of Congolese Patriots (UPC), set up their own base at Mandro, some twelve miles outside Bunia and took control of part of Bunia town from the APC. In the process, both sides committed abuses against the civilian population.<sup>3</sup>

In April 2002, Nyamwisi participated in the Sun City negotiations, establishing links with the DRC government that he could use to strengthen his base at home. During his absence in Sun City, the UPC circulated a document in Bunia denouncing the RCD-ML for its willingness to deal with outsiders. Under the slogan "Ituri for Iturians," they advocated regional autonomy.<sup>4</sup>

<sup>1</sup> Initially known as the RCD-Kisangani, the name was changed to RCD-ML after the move to Bunia. It is sometimes referred to as RCD-K-ML to denote its early origins.

<sup>2</sup> Under the Luanda Accords, Uganda promised to withdraw its forces immediately from Gbadolite and Beni but arranged to keep soldiers in Bunia until a civilian administration was established there.

<sup>3</sup> Human Rights Watch, "Chaos in Eastern Congo: UN Action Needed Now," A Briefing Paper, October 2002.

<sup>4</sup> Human Rights Watch interview, Bunia, February 2003.

In the following months, Governor Molondo integrated Lendu militia into the RCD-ML forces in accord with the Sun City agreement. The Hema militia charged Molondo with favoring the Lendu and remained apart from the APC. In June, Ugandan authorities detained Lubanga and eight aides while they were in Kampala and then delivered them to Kinshasa where they were held under house arrest. But two months later, Ugandan authorities switched clients and Ugandan troops joined the UPC in ousting Governor Molondo and APC forces from Bunia. Soon after, the UPC set up a government purporting to control Bunia and the rest of Ituri.<sup>5</sup>

### **Ugandan Manipulation of Local Politics**

Ugandan involvement with the RCD-ML and other political groups in Ituri constituted another strand of the complex political fabric. This link was sometimes echoed by further ties between the RCD-ML and locally-based groups. In other cases, Ugandans cooperated directly with the locally-based groups, creating still another strand of political involvement.

During its four years occupying the north-eastern DRC, the Ugandan army--the Ugandan Peoples Defense Force (UPDF)--claimed to be a "peacemaker" in a region torn by ethnic strife. In reality the Ugandan army provoked political confusion and created insecurity in areas under its control. From its initial involvement in a land dispute between the Hema and Lendu ethnic groups in 1999 through its joint operation with Lendu and Ngiti militias to dislodge Hema from Bunia in March 2003, the Ugandan Army more often aggravated than calmed ethnic and political hostilities.<sup>6</sup>

Since 1999 the initial conflict between Hema and Lendu drew in more ethnic groups and spawned increasing numbers of ethnically-based militia. Uganda provided assistance to many of these groups often helping to launch, arm, and train them, but its support was erratic and determined by its own interests.<sup>7</sup> A local politician who discussed Ituri political affairs with Ugandan authorities in late 2002 told Human Rights Watch researchers, "It was clear to me that Uganda wanted a pawn in Ituri. When their pawn didn't work, they were happy to change it for another.... If Uganda continues to play games like this there will never be peace in Ituri."<sup>8</sup>

The list below summarizes some of the ways that Uganda intervened in Ituri politics.<sup>9</sup>

- There are currently ten armed political groups operating in Ituri (see box below). Since 1998 most of these groups have at one point or another been armed, trained or politically supported by the Ugandan authorities. For some this support has been only of brief duration while for others it has been more long-term.<sup>10</sup> Uganda has played a major role in launching or supporting at least five of these groups.<sup>11</sup>
- On the political level, Ugandans directed important changes in the rebel movements based in Bunia, including removing Wamba dia Wamba as head of the RCD-ML and replacing him by Mbusa Nyamwisi; supporting the creation of two coalitions, the Front for the Liberation of Congo (FLC) which grouped rebel movements at the national level and the Front for Integration and Peace in Ituri (FIPI) which grouped local rebel groups of the Lendu, Alur and dissatisfied Hema; and driving away the RCD-ML and helping install the UPC in Bunia in August 2002. These changes were directed from Kampala and supported by the Ugandan forces in Ituri.
- Uganda intervened in local administration by establishing a new province, Kibali-Ituri, in 1999, by naming its first governor, and by playing a major role in changing four of the six governors since then. Three governors

<sup>5</sup> Human Rights Watch, "Chaos in Eastern Congo: UN Action Needed Now."

<sup>6</sup> Human Rights Watch, A Short Report, *Uganda in Eastern DRC: Fuelling Political and Ethnic Strife*, March 2001.

<sup>7</sup> Ibid. See also U.N. Integrated Regional Information Network (IRIN), Special on Ituri, December 2002.

<sup>8</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>9</sup> Human Rights Watch interviews, Bunia, Beni, and Kampala, February 2003; Human Rights Watch, *Uganda in Eastern DRC: Fuelling Political and Ethnic Strife*, March 2001; and IRIN chronology on Ituri, December 2002.

<sup>10</sup> Ibid.

<sup>11</sup> RCD-ML, MLC, RCD-N, UPC and the FIPI platform of three ethnic based groups. For support to the RCD-ML, MLC and RCD-N see Human Rights Watch, A Short Report, *Uganda in Eastern DRC: Fuelling Political and Ethnic Strife*, March 2001. For support to the UPC and FIPI see following chapters in this report.

were removed directly by Ugandans with their army providing the force in two of these cases.<sup>12</sup> One governor was forced to leave after the Ugandan-backed coalition FLC failed and another was never accepted by the local population and was unable to carry out his duties.<sup>13</sup> Between January and May 2001, Col. Edison Muzoora of the Ugandan Army effectively acted as governor, a period during which inter-ethnic violence escalated dramatically.<sup>14</sup>

- Of the seven Ugandan commanders in charge of the Ugandan forces in Ituri, four were accused by local actors and other independent groups of favoring the Hema over the Lendu.<sup>15</sup> The Porter Commission set up by the Ugandan government also acknowledged that it had received evidence that four senior Ugandan Army officers (two of whom were the same accused by local groups) had in one way or another been highly suspected of involvement in the Hema–Lendu conflict.<sup>16</sup> Another commander was removed supposedly after he tried to stop the Ugandan exploitation of DRC resources.<sup>17</sup>
- Ugandan authorities often managed and chaired political negotiations on Ituri. Between 1999 and February 2003, Ituri leaders went to Kampala for political negotiations more than fifteen times and met frequently with either President Museveni or his brother Salim Saleh.

Ugandan meddling in Ituri politics stimulated new political parties and militia groups to form and most did so along ethnic lines, contributing to growing ethnically- based extremism.

On many occasions since their arrival in Ituri in 1998, Ugandan forces failed to protect civilians in areas under their control, most dramatically in Bunia on January 19, 2001 and between August 6 and 10, 2002 when ethnic killings took place within a kilometer of the large Ugandan army camp at the airport. In a few cases, however, Ugandan soldiers did protect civilians. During the early August attacks in Bunia, for example, two Ugandan soldiers reportedly died protecting Hema at Lengabo. In another case at Mabanga on August 28, 2002, Ugandan troops sheltered hundreds of Lendu and others from Hema attack and then the next day escorted them to safety past hostile Hema militias and the bodies of their relatives and friends.

### *The Ugandan Government Response*

On April 15, 2003 Ugandan army Brig. Kale Kayihura, addressing the Ituri Pacification Commission in the name of President Museveni, reportedly deviated from his prepared text to ask the delegates to excuse Ugandan troops for atrocities they committed in Ituri.<sup>18</sup> If so, this represented an unusual recognition of wrongdoing by Ugandan military authorities who more frequently claimed to have acted as peacekeepers and perhaps even to have prevented a genocide. As Brigadier Kayihura told journalists, “There are indicators of possible genocide if the UPDF leaves the area without an effective peacekeeping force and administration. The savage killings in Drodro are a reminder to the international community to stop the genocide before it reaches alarming levels.”<sup>19</sup> President Museveni reportedly denigrated MONUC and its ability to deal with the threat, saying “MONUC is just a tourist group.”<sup>20</sup>

Ugandan authorities claimed in the press that the UN asked them to stay in Ituri, although the UN never explicitly did so. Ugandan spokesmen relied on a September 2002 report by the U.N. secretary general in which he called

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<sup>12</sup> Governors Adele Lotsove Mugisa, Ernest Uringi Padolo and Jean Pierre Molondo Lompondo.

<sup>13</sup> Col Mohammed Buli Bangolo was the first, Ruhugwa Baguma the second.

<sup>14</sup> During this time there was no official governor and Colonel Muzoora effectively held administrative control.

<sup>15</sup> Captain Kyakabale, Colonel Arosha, Col. Edison Muzoora and Col. Freddy Segamwenge.

<sup>16</sup> Final Report of the Judicial Commission of Inquiry into Allegations into Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of Congo 2001 (May 2001 – November 2002), November 2002, p. 138. The Porter Commission mentions Cap Kyakabale, Colonel Arosha, Cap. Peter Karim and Colonel Angina.

<sup>17</sup> Col. Charles Angina.

<sup>18</sup> Electronic mail and telephone communication with delegates who attended the conference, April 16, 2003.

<sup>19</sup> “A Whole New Genocide is Well Underway in Congo,” *The New Vision*, Kampala, April 17, 2003.

<sup>20</sup> “Army Sets Terms for Pulling out of DRC,” *The Monitor*, Kampala, April 11, 2003.

on the Ugandan army to exercise its security responsibilities “in an impartial manner”<sup>21</sup> and on similar U.N. statements reminding Uganda of its responsibility to protect civilians in Ituri. At first neither the secretary general nor the Security Council explicitly refuted these assertions but they reportedly did so through diplomatic channels several months later.<sup>22</sup>

In late April 2003, Brigadier Kayihura claimed also that Ugandan troops were needed “to secure the Ituri Pacification Commission process” as well as to protect Uganda against the Ugandan dissident group the Peoples Redemption Army (PRA) and armed cattle rustlers.<sup>23</sup> When Uganda first sent troops to Ituri, authorities claimed they were there to protect Uganda against the Ugandan rebel group the Allied Democratic Forces (ADF).

Ugandan forces missed repeated deadlines for leaving Ituri but finally completed their withdrawal from Bunia on May 6, 2003 and continued withdrawing from other areas in Ituri, claiming to have completed their total withdrawal in early June. Foreign Minister James Wapakhabulo disclaimed Ugandan responsibility for “any ugly situations such as massacres” that might happen after the Ugandan withdrawal.<sup>24</sup> There were reports that the DRC government was willing to allow one Ugandan army battalion to stay on the slopes of the Ruwenzori mountains, although exactly where and for how long was unclear. Wapakhabulo also reportedly warned that the Ugandan army withdrawal would not “remove an inherent right to self defence” and that Uganda would be prepared to “carry out small military incursions” into Ituri if necessary.<sup>25</sup>

When Ugandan troops arrived in Uganda, they were welcomed by Defense Minister Amama Mbabazi who congratulated them and declared their mission in DRC “an overall success”. Brigadier Kayihura returning with his troops from Bunia stated, “We return home keeping our heads high because we have done Uganda proud.”<sup>26</sup>

#### **The Role of the DRC Government in Ituri**

Until April 2002, the Kinshasa government played little role in Ituri but with the Sun City agreement, it sought more influence in parts of northeastern Congo which were nominally under the control of the RCD-ML, though in fact occupied by the Ugandan army. Focused first on regaining control over resources and strengthening the military forces of its ally the RCD-ML, the DRC government otherwise lacked a coherent strategy for effectively governing the northeast. Unlike Uganda which manipulated several local political links simultaneously, the DRC government worked primarily with the RCD-ML and, through it, with Lendu, Ngiti, and other ethnic groups. These links undermined the credibility of the DRC government with Hema ethnic groups and others allied with them, and made it nearly impossible for the national government to serve as a neutral force in Ituri.

Shortly after the Sun City agreement was signed, the DRC authorities reclaimed control over Ituri’s resources by signing an exclusive oil exploration license with the Canadian-British Heritage Oil Company for the area on the DRC side of the Semliki Valley.<sup>27</sup> The agreement gained them some cash and set an important precedent for future deals on resource exploitation, but did nothing to increase their authority over the area. The military wing of the RCD-ML, the APC, had no control over most of the area where the oil exploration license had been granted and was weakening elsewhere. Mbusa Nyamwisi himself was unable to return to Bunia after the Sun City agreement was signed and he was forced to move his base to his hometown of Beni.

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<sup>21</sup> U.N. Security Council, “Special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo,” S/2002/1005, September 10, 2002.

<sup>22</sup> Human Rights Watch interviews, Kampala, February 2003.

<sup>23</sup> “A Genocide Could Erupt After UPDF Quits DRC,” the *New Vision*, Kampala, April 23, 2003.

<sup>24</sup> “UPDF to Meet Congo Deadline, Says Wapa,” *The Monitor*, Kampala, April 18, 2003.

<sup>25</sup> Ibid.

<sup>26</sup> “UPDF Says Congo Mission a Success,” *The Monitor*, April 28, 2003.

<sup>27</sup> On 10 June 2002 Heritage Oil announced an agreement with the DRC government to develop oil production in approximately 7.7 million acres of Eastern Congo (Ituri). Dominic Johnson, “*Shifting Sands: Oil Exploration in the Rift Valley and the Congo Conflict*,” Pole Institute Report, March 13, 2003.



### ***Military Assistance to the RCD-ML and Other Armed Groups***

Faced with the growing power of the UPC, the DRC government sought to strengthen the APC and to integrate it more effectively into the DRC government army, the Forces Armées Congolaises (FAC). Kinshasa provided the APC with uniforms, ammunition, and trainers from FAC. At several camps, such as that at Nyaleke, FAC soldiers trained local forces, including APC, Lendu and Ngiti militias, and Mai Mai, groups of local combatants of various ethnic groups united in their goal of expelling outsiders. According to local sources, approximately two FAC battalions arrived in the Beni area to prop up the APC.

In February 2003 a witness described the training to Human Rights Watch researchers:

There is an alliance between the APC and the Ngiti. They are trying to find ways to integrate more fighters into the army. There is a training center in Nyaleke where the FAC are training the APC, Mai Mai, Ngiti and Lendu. Some of the fighters are young although there is an agreement that only those who are 18 or older will be trained. In the training camp in Nyaleke, a FAC commander called Colonel Aguru is responsible for the training. Currently there are more than fifty Ngiti and Lendu fighters being trained in the camp. At Mangangu there is a camp just for the Mai Mai as they have different requirements than do the APC soldiers.

In early February there was an agreement reached between the Ngiti leadership and Colonel Aguru that Lendu and Ngiti fighters would not have to come to Beni for training but that they could be trained locally in their own villages. This has made them very happy.<sup>28</sup>

Mbusa Nyamwisi admitted that his APC troops received support from the FAC but denied any alliance with the Ngiti and the Lendu. As he said to Human Rights Watch researchers, "The Ngiti and Lendu see us as potential allies, but I put the brakes on this alliance."<sup>29</sup> Lendu leaders of the Front for National Integration (FNI) and Ngiti leaders of the Patriotic Force of Resistance in Ituri (FRPI), however, assert that such an alliance does exist.<sup>30</sup>

The training and support to the APC and others produced results. When the MLC attacked the ANC positions in Mambasa in October, November, and December 2002, Mbusa Nyamwisi's troops together with the Mai Mai used heavy weapons for the first time and stopped the MLC advance near Teturi and Eregenti. Local sources said these new weapons had been delivered by the FAC.<sup>31</sup>

Ready to act through their local proxies, DRC authorities declined to openly confront Uganda. Instead the DRC government agreed to a gradual withdrawal of Ugandan forces and to a period of joint control over the border area, insisting on the Ugandan responsibility for helping to restore order in the area. "Uganda controlled this part of our territory for the last four years, it is therefore duty bound to repair the damage it has caused," argued Congo's General Commissioner for Peace Kamerhe.<sup>32</sup>

With no coherent plan for extending its authority in the northeast and little accurate information about local realities, the DRC government engaged in several ad hoc interventions ranging from the symbolic declaration that it would pay the salaries of the public sector employees in RCD-ML areas to the organization in Kinshasa of a promising peace and reconciliation conference to resolve the Ituri crisis. Leading the peace initiative was Ntumba Luaba, the DRC Minister for Human Rights, who traveled to Bunia a number of times to persuade influential actors to join discussions in Kinshasa.<sup>33</sup>

<sup>28</sup> Human Rights Watch interview, Beni, February 2003.

<sup>29</sup> Human Rights Watch interview with Mbusa Nyamwisi, Beni, February 11, 2002.

<sup>30</sup> Human Rights Watch interview, Beni, February 2003.

<sup>31</sup> Human Rights Watch interview, Beni, February 2003.

<sup>32</sup> Réseau Européen Congo (REC), Bulletin d'Information no. 10 / 2002, October 16, 2002, item 17.

<sup>33</sup> Representatives of the government, about 100 delegates of the nine ethnic communities of Ituri, members of MONUC, civil society, and religious confessions were present at the conference, but there were no representatives of the rebel factions and ethnic militias.

### ***DRC Minister of Human Rights Taken Hostage***

In August 2002 peace discussions took on added urgency with the killings in Bunia (see below). Hoping to win the UPC cooperation that had now become essential to ending the conflict, DRC Minister of Human Rights Luaba went to Bunia on August 26 with Lubanga, still nominally under house arrest. Shortly before the delegation was to leave Bunia, Lubanga persuaded the minister to visit Hema injured in the recent fighting. The minister agreed and learned too late that this was a ruse to take him and others hostage to be held in exchange for Lubanga and for others still in Kinshasa.

A witness recounted:

Heavily surrounded by the UPC Hema militias, the delegation was taken to the house of local Chief Kahwa Mandro, where upon arrival they were informed by Chief Kahwa that the entire delegation had become his hostages. MONUC was quickly informed of the situation and became the intermediary between Chief Kahwa and the DRC government. The demands were clear: the Kinshasa government was asked to release nine people<sup>34</sup> who had been taken by the Ugandans to Kinshasa in exchange for the return of the Minister of Human Rights and his delegation.<sup>35</sup>

Negotiations continued for three days while the hostages were kept in Mandro. On August 27, 2002, former Ituri governor Adele Lotsove Mugisa arrived in Mandro reportedly declaring that she had been sent by Salim Saleh to free the hostages.<sup>36</sup> Two days later the hostages were permitted to fly back to Kinshasa and the UPC members held in Kinshasa were also released.

Chief Kahwa told Human Rights Watch researchers:

I took the Minister of Human Rights hostage as I wanted to find a way to free Lubanga. I took them all and then we negotiated the release of our friends. I planned it myself and it worked very well. Lubanga and the others were freed.<sup>37</sup>

Shortly after the plane departed, the UPC established a government that purported to control Bunia and the rest of Ituri. The participants in the hostage-taking assumed key posts in the new government: Thomas Lubanga became President; Adele Lotsove Mugisa, criticized for having incited ethnic violence during her tenure as first governor of Ituri, became Minister of Finance; Bosco Taganda became Assistant Minister of Defense; Chief Kahwa was named Presidential Advisor; and Rafiki Saba Aimable, Chief of Security Services.

Neither the new UPC government nor Kinshasa investigated the taking of the hostages or pressed charges in connection with the case. The UPC success in getting their members released showed its strength and the corresponding weakness of the Kinshasa government, handicapped by the paucity of its local clients and by its distance from the scene. The incident reportedly intensified the DRC government's determination to counter the UPC and may have contributed to increased support for Lendu and Ngiti groups via the RCD-ML.<sup>38</sup>

### ***Involvement of RCD-Goma and the Rwandan Government in Ituri***

The UPC depended heavily on Ugandan assistance to win control of Bunia in August 2002, as is described below, but it apparently simultaneously began cultivating links with the Rwandan-backed RCD-Goma and with Rwanda itself. Towards the end of the year, the UPC finally shifted from reliance on Ugandan support to reliance on the RCD-Goma. The change was marked by a January 6, 2003 agreement in which the Rwandan-backed movement agreed to provide military and political support to the UPC.<sup>39</sup> The agreement, which committed Rwanda's local

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<sup>34</sup> These included Bagonsa and Bosco Taganda who would later become key individuals within the UPC administration.

<sup>35</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>36</sup> Ibid.

<sup>37</sup> Human Rights Watch interview, Chief Kahwa Mandro, Kampala, February 22, 2003.

<sup>38</sup> Human Rights Watch interviews, Beni and Kampala, February 2003.

<sup>39</sup> Human Rights Watch interview, Thomas Lubanga, Bunia, February 14, 2003.

partner to aiding the Hema group, was the clearest and most public indication until that time of Rwandan involvement in Ituri which, according to local sources, had been growing throughout 2002.<sup>40</sup>

Rwandan involvement in Ituri, whether directly or through RCD-Goma, increased the complexity of the conflict as well as the risks that it may continue and expand. Rwanda and Uganda, enemies for the last three years, have accused each other of preparing attacks in eastern DRC. The Ugandan government has charged Rwanda with supporting armed groups hostile to it, including the Lord's Resistance Army (LRA) and with training other dissidents, such as the People's Redemption Army (PRA). The Rwandan government in turn asserted that Uganda was assisting Rwandan rebels and the Interahamwe militia involved in the 1994 genocide, assistance which they viewed as a "direct security threat" to Rwanda.<sup>41</sup>

In addition to continuing their conflict with Uganda, Rwandan authorities may also seek a role in Ituri to counter the deployment of FAC forces and the possible growth of DRC influence in the area; to win a share of the rich resources of the region; and to support the Hema whom they view as an ethnic group related to the Tutsi and as a threatened minority.<sup>42</sup>

Hema Chief Kahwa Mandro was apparently the first local actor to solicit Rwandan assistance. He told Human Rights Watch researchers that he asked for Rwandan aid in June 2002 and discussed his request with General James Kabarebe of the Rwandan general staff.<sup>43</sup> His group then received arms, ammunition, and training from Rwanda. Chief Kahwa reportedly assisted in bringing other UPC members into contact with Kigali, although he himself eventually fell out with the UPC and resumed his allegiance to Uganda, his original backer.<sup>44</sup>

Numerous witnesses reported that Rwanda helped the UPC with advice and training and the delivery of ammunition.<sup>45</sup> A few even claimed having seen Rwandans fighting alongside UPC forces (see below). Many of these reports come directly or indirectly from RCD-ML or Ugandan sources and must be treated with reserve. Others, however, come from local witnesses not apparently attached to anti-Hema or anti-Rwandan groups.

Mbusa Nyamwisi, for example, alleged that Kigali was delivering arms, ammunition, and even Rwandan soldiers into the airstrips at Irumu, Mongbwalu, and Bunia.<sup>46</sup> One of his senior military staff told Human Rights Watch researchers that in the first week of February 2003 an Antonov 26 landed in Irumu with weapons and people from Kigali.<sup>47</sup> Ugandan soldiers claimed to have flight data, collected by radar, showing planes such as Antonov 26 leaving Kigali and going to air strips in Ituri.<sup>48</sup>

MONUC passed on similar information to its Kinshasa headquarters, at least some of it obtained from Ugandan military sources. On September 18, 2002 the MONUC team in Bunia reported to Kinshasa that "on 16 September 2002 at 18:10, a plane from Rwanda airdropped arms, ammunition and uniforms at Mandro. The UPC are now seen with new camouflage uniforms and new weapons." On October 7, 2002 MONUC reported that "Ugandan army Major David Muhoozi states that the RPA<sup>49</sup> are in Bunia and are expected to be in Mandro training camp. They are small in number and in civilian clothes." A day later again MONUC forces in Bunia told Kinshasa that "the [Ugandan army] confirms that the RPA soldiers in Bunia are former RPA/Banyamulenge and are instructors at Mandro. Also [Chief] Kahwa (UPC) has visited Rwanda for support."<sup>50</sup>

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<sup>40</sup> Human Rights Watch interviews, Beni and Kampala, February 2003.

<sup>41</sup> "Congo, Rwanda Sabre Rattling Turns Into PR War," *The East African Standard*, Nairobi, March 31, 2003.

<sup>42</sup> Human Rights Watch interviews with local analysts, Beni, Bunia and Kampala, February 2003.

<sup>43</sup> Human Rights Watch interview, Chief Kahwa Mandro, Kampala, February 22, 2003.

<sup>44</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>45</sup> Human Rights Watch interviews with a range of sources in Beni, Bunia, Kampala, February 2003.

<sup>46</sup> Human Rights Watch interview, Mbusa Nyamwisi, Beni, February 11, 2003.

<sup>47</sup> Human Rights Watch interview, military commander, Beni, February 2003.

<sup>48</sup> Human Rights Watch interview, Ugandan military source, Kampala, February 2003.

<sup>49</sup> Then known as the Rwandan Patriot Army (RPA), the Rwandan armed forces are now called the Rwandan Defense Forces, RDF.

<sup>50</sup> Internal MONUC correspondence, September and October 2002.

A civilian witness unaffiliated with either the RCD-ML or the Ugandans saw Rwandans arrive at an airstrip near Mahagi in northern Ituri in early 2003. He told Human Rights Watch researchers:

I was at the airstrip with a retired former Ugandan military man who had once trained Rwandans when they were still in Uganda many years ago. The Rwandans recognized the old man and came over to salute him as I was standing there. He asked them what they were doing and they said they were there to train the UPC.<sup>51</sup>

Another witness in Kigali saw Lubanga and a high level delegation of UPC officials, including Jean Baptist Dhetchuvi, Richard Lonema, Commander Kisémbó, and Rafiki Saba Aimable, arrive in the Rwandan capital on December 30, 2002. The witness said:

After a meeting in Gbadolite where Lubanga was refused a place in the talks with the MLC, RCD-N and RCD-ML, the UPC delegation boarded an Antonov 26 and went straight to Kigali. In Kigali, UPC officials said they met with James Kabarebe and President Kagame. They spent one night in Kigali and then the whole delegation returned to Bunia except for the foreign minister Jean Baptiste Dhetchuvi who stayed behind to organize further details with Kigali and was then going to Goma to write the new agreement. Before they returned [to Bunia] I saw the plane loaded with about five tons of ammunition and weapons.<sup>52</sup>

UPC Foreign Minister Dhetchuvi, a former biology professor at the National University of Rwanda, apparently negotiated the January 6, 2003 agreement between RCD-Goma and the UPC in Goma just when the Ugandans were organising talks with all the armed groups in Arua. A month later President Onasumba of the RCD-Goma visited Bunia to solidify the new relationship.<sup>53</sup>

### **Economic Gain**

Ituri is one of the richest areas of Congo with deposits of gold, diamonds, coltan, timber and oil. Foreign governments, their soldiers, and numerous others unofficially attached to them as well as the DRC government itself wanted to profit from the many and valuable resources of this area, including cross border trade and customs revenue. A number of independent reports including those by a United Nations Panel of Experts and by international non-governmental organizations have documented the link between the conflict in the DRC and the exploitation of natural resources. In the case of Mongbwalu documented below, witness testimony showed how quickly the victors in combat moved to exploit local resources—in this case, gold.

Trade statistics show the extent to which Uganda has profited from the riches of the DRC. Gold exports from Uganda more than doubled after their troops crossed into the DRC, although there was no increase in domestic production capacities.<sup>54</sup> This upsurge coincided with a heavy deployment of Ugandan troops in mining areas in Ituri such those near Kilo Moto, described as one of the most productive gold mines in Congo. The record of diamond exports is even clearer. No diamond exports were recorded from Uganda in the decade before their troops arrived in the DRC. Then from 1997 to 2000, diamond exports jumped from 2,000 to 11,000 carats. In 2001 an estimated \$3.8 million worth of diamonds was exported.<sup>55</sup>

The final report of UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC, published in October 2002, concludes that an elite network of Ugandan soldiers, officials, and politicians, local rebels, and international businesses plundered the Congo for their own benefit and to finance

<sup>51</sup> Human Rights Watch Interview, Paidha, February 2003.

<sup>52</sup> Human Rights Watch interview, February 2003.

<sup>53</sup> Human Rights Watch interview, Thomas Lubanga, Bunia, February 14, 2003. Also see local press reports in *The Millenaire*, February 2003 and U.N. IRIN, February 2003.

<sup>54</sup> U.N. Security Council, "Addendum to the report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC," S/2001/1072, November 13, 2001.

<sup>55</sup> *Ibid.*

the war.<sup>56</sup> According to the Panel, this network included Hema businessmen like the Savo family in Ituri. Museveni's brother Salim Saleh and former Ugandan army Major General James Kazini were identified as leaders of the network, using the Ugandan army and various rebel militias as their personal enforcement arm for commercial purposes.<sup>57</sup>

The Panel stated that the Hema-Lendu conflict stems in part from attempts by the Ugandans and powerful Hema businesspeople and politicians to increase their profits from commercial activities.<sup>58</sup> The Hema, it said, fill an important niche in the operation of the criminal enterprises by transporting primary products from Ituri across the border to Uganda under the protection of Ugandan troops and bringing back gasoline, cigarettes and arms, all exempt from taxation. Dissatisfied with their relatively limited share of the business, many of them joined the UPC under Lubanga in an attempt to secure greater profits.<sup>59</sup>

The Porter Commission established by the Ugandan Government on May 23, 2001 to look into the allegations of Ugandan involvement in illegal exploitation of Congolese resources produced its final report in November 2002, although it was only recently made public. The report exonerated the Ugandan government and its army of official involvement in such exploitation.<sup>60</sup> The Commission did, however, support the U.N. panel's findings in relation to senior Ugandan army officers who, said the Commission, had "lied to protect themselves." It said also that "officers to very senior levels, and men of the Ugandan army have conducted themselves in the DRC in a manner unbecoming."<sup>61</sup> It particularly singled out General Kazini for having "shamed the name of Uganda"<sup>62</sup> and it recommended disciplinary action against him. The Commission strongly recommended further investigation of diamond smuggling, stating that there was a link between senior Ugandan army members, known diamond smugglers, and a Ugandan business.<sup>63</sup>

Rwandan authorities allegedly also hoped to profit from the gold of Ituri. Lubanga's UPC was reportedly ready to help Rwanda get a share of the gold mined in Mongbwalu but was unable to deliver when it lost power in Bunia.<sup>64</sup>

The discovery of oil in the Semliki Valley, an area straddling the border between Uganda and Ituri, ensures that competition over Ituri will increase. Heritage Oil, to which the DRC government has conceded exploration rights in Ituri, drilled test bores on the Ugandan side of the border. On March 31, 2003, the company announced it had struck oil in Uganda and said the area had the potential of being a new world-class oil basin.<sup>65</sup> The Ugandan Director of Heritage Oil planned to start activities on the Congolese side of the border in March 2003 projecting that it would take 5 years and \$15 to \$20 million in investment to turn a profit.<sup>66</sup> In addition to its contract with the DRC government, Heritage Oil maintains close links with Ugandan authorities.<sup>67</sup> In 2002 agents of the company started to make contact with local chiefs in Ituri, including several in Burasi as well as Chief Kahwa of Mandro.<sup>68</sup> Chief Kahwa said "I have been contacted by the Canadian Oil people who came to see me. I told them they could only start work in Ituri once I had taken Bunia from the UPC."<sup>69</sup>

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<sup>56</sup> U.N. Security Council, "Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC," S/2002/1146, October 16, 2002.

<sup>57</sup> Ibid.

<sup>58</sup> Ibid., paragraph 118.

<sup>59</sup> Ibid., paragraph 121.

<sup>60</sup> Final Report of the Judicial Commission of Inquiry into Allegations into Illegal Exploitation of Natural resources and Other Forms of Wealth in the Democratic Republic of Congo 2001 (May 2001 – November 2002), Kampala, November 2002, p 199.

<sup>61</sup> Ibid., p.202 and 207

<sup>62</sup> Ibid., p.203.

<sup>63</sup> Ibid., p.205.

<sup>64</sup> "UPC Rebels Grab Mongbwalu's Gold," *African Mining Intelligence* No. 53, January 15, 2003.

<sup>65</sup> Heritage Oil Press Release, "Heritage Confirms Uganda Oil Potential and Outlines Further Investment Plans", March 31, 2003.

<sup>66</sup> Ibid., Johnson, "Shifting Sands," p. 24.

<sup>67</sup> Ibid., p. 24.

<sup>68</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>69</sup> Human Rights Watch interview, Chief Kahwa Mandro, Kampala, February 22, 2003.

Kahwa's statement with its implication that oil rights could be traded for the backing needed to win Bunia suggests the risks if ambitious local actors begin soliciting and receiving support from yet another group of external actors, powerful international corporations. Local and international observers fear the consequences should one of the world's most capital-intensive extractive industries enter one of the world's most complex conflict areas. As UPC Foreign Minister Dhetchuvi claimed, "in Ituri we are in an oil war."<sup>70</sup>

#### IV. LOCAL CONTEXT – ARMED POLITICAL GROUPS

##### Proxies Pursuing Their Own Interests

Ituri is home to eighteen different ethnic groups, with the Hema/Gegere<sup>71</sup> and Lendu/Ngiti<sup>72</sup> communities together representing about 40 per cent of the inhabitants. The other major groups are the Bira, the Alur, the Lugbara, the Nyali, the Ndo-Okebo, and the Lese. With ethnic identity of growing importance, a new group has emerged, the "non-originaires"<sup>73</sup>, that is, 'outsiders' who were not born in Ituri. The Nande of north Kivu represent the most prominent of the "non-originaires", due to their importance in the business sector. The emergence of Mbusa Nyamwisi, a Nande, as the leader of the RCD-ML raised the profile of the Nande in Ituri. Hema elites seeking to assert or protect their control of the political and economic spheres in Ituri tend to consider the Nande as direct competitors.

The Hema, Lendu, and other ethnic groups that serve as proxies for governments and rebel movements also seek to set agendas that serve their own interests. They are skilled at playing off the various outside rivals and change sides as their interests dictate. They adapt rapidly to developments on the national scene, working on the basis of the enemy of my enemy is my friend—at least for the moment.

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<sup>70</sup> Ibid., Johnson, "Shifting Sands," p.19.

<sup>71</sup> The Hema ethnic group is divided in two sub-groups: the Gegere, also known as the Hema from the north, who speak Kilendu and the Hema, also known as Hema from the south, who speak Kihema. There are increasing divisions between these two groups. This report refers to the Hema for both groups and differentiates Gegere only when their views are different.

<sup>72</sup> The Lendu ethnic group is also divided into two sub-groups: Lendu who originate from the northern areas of Ituri and the Ngiti who come from the south. In general they consider themselves as brothers and have similar political views.

<sup>73</sup> In the local language this is expressed as "the Bakuyakuya".

*Who is Who - Armed Political Groups in Ituri (May 2003)*

**RCD-ML: Congolese Rally for Democracy- Liberation Movement**

Current Leader: Mbusa Nyamwisi

Also known as RCD-Kisangani, the RCD-ML was launched in September 1999 in Kampala when Wamba dia Wamba split from the RCD-Goma. Backed at the start by Uganda, the RCD-ML has been fractured by leadership struggles and in-fighting. The current leader, Mbusa Nyamwisi took power after ousting Wamba dia Wamba. The RCD-ML's military wing is the Congolese Popular Army (APC). The RCD-ML entered into the Sun City agreement of April 2002 and the APC are now being trained and armed by Kinshasa.

**MLC: Movement for the Liberation of Congo**

Current Leader: Jean-Pierre Bemba

Based in Gbadolite, the MLC has been backed by Uganda since the start of the war in 1998 although there have been occasional differences between the two. The MLC tried twice to establish a foothold in Ituri: in 2001 Bemba had nominal control of the short-lived FPC coalition of Ugandan-backed rebel groups and in 2002 the MLC attacked Mambasa in western Ituri but were forced back by the APC of Mbusa Nyamwisi. The MLC has occasionally fought alongside the UPC and has been a rival of Mbusa's RCD-ML.

**RCD-National: Congolese Rally for Democracy - National**

Current Leader: Roger Lumbala

Now based in Watcha, northern Ituri, the RCD-N initially operated as a front organization for the Ugandans in exploiting the diamond riches of the town of Bafwasende. In 2001 and 2002, the RCD-N supported MLC attempts to win resource-rich areas from the RCD-ML. RCD-N has few soldiers and relies on the MLC army.

**UPC: Union of Congolese Patriots (predominately Hema/Gegere party)**

Current Leader: Thomas Lubanga

Purportedly launched to promote reconciliation, the UPC quickly became a predominately Gegere-led political party intent on promoting the interests of the Hema and related Gegere. It came to power in Bunia in August 2002 with the help of the Ugandans and used Hema militia as part of its armed forces. It turned to Rwanda for support and formed an alliance with the Rwandan-backed RCD-Goma after being excluded by the RCD-ML and the MLC from the Mambasa ceasefire talks in December 2002. Having turned from Uganda politically, the UPC was ousted from Bunia by the Ugandan army in March 2003 but fought its way back into town in May.

**FIPI: Front for Integration and Peace in Ituri (platform of three ethnic-based parties)**

Current Leader: A coalition of three leaders of PUSIC, FNI and FPDC

Created in December 2002 with Ugandan support, the three ethnically-based political parties shared the objective of getting rid of the UPC. Otherwise FIPI has no apparent program. The group includes Hema dissatisfied with the UPC, Lendu, and Alur, each with its own political party (see below). After the UPC was forced from Bunia, the parties began squabbling and the coalition appears to have collapsed.

*Who is Who - Armed Political Groups in Ituri (May 2003), continued*

**PUSIC: Party for Unity and Safeguarding of the Integrity of Congo** (Hema dissatisfied with the UPC)

Current Leader: Chief Kahwa Mandro

Former UPC member Chief Kahwa created PUSIC in early February 2003. Most members appear to be Hema from the south. Uganda supports the party as part of the FIPI coalition. Chief Kahwa was backed briefly by the Rwandans when he was in the UPC, but claims that PUSIC currently has no such support and is more interested in working with Kinshasa. PUSIC may have allied with the UPC against the Lendu in Bunia in May 2003; if so, this alliance of convenience would be tenuous and probably short-lived. PUSIC appears to have continued close links with Ugandan authorities.

**FPDC: Popular Force for Democracy in Congo** (Alur and Lugbara political party)

Current Leader: Thomas Unen Chen, a former member of the Zairian parliament

FPDC was created in late 2002 mostly by Alur and Lugbara from the Aru and Mahagi area, north Ituri, to counter the UPC. Recently it started to recruit and train its own militias. Although professedly interested in dialogue, it is prepared to fight if dialogue fails. It has been supported by Uganda as part of the FIPI coalition and appears to have close ties with former Ugandan army Col. Peter Karim, an Alur from Uganda.

**FNI: Front for National Integration** (Lendu political party)

Current Leader: Floribert Njabu Ngabu

Lendu intellectuals and traditional chiefs established FNI but the party claims broad support by the Lendu community in its effort to oppose the UPC. Lendu militias are reportedly being organised under the military wing of this party, which some equate with the FRPI (see below). Supported by Uganda as part of the FIPI coalition, it joined the Ugandan army in driving the UPC from Bunia on March 6, 2003, for which some its members were publicly thanked by Brigadier Kayihura in April. FNI has also benefited from military training and support from the RCD-ML and, through it, from Kinshasa.

**FRPI: Patriotic Force of Resistance in Ituri** (Ngiti political party)

Current Leader: Dr Adirodo.

Launched in November 2002 the Ngiti party FRPI is said to be closely linked to the Lendu FNI. It is meant to bring together Ngiti militias with traditional leaders in a single force against the UPC. Based in Beni and said to number 9,000 combatants, the FRPI has close ties to the RCD-ML from which it receives both military training and arms. It claims to have a large fighting force and many see it as the army of the FNI. It joined the Ugandans in driving the UPC from Bunia in March 2003 and together with the FNI briefly controlled Bunia in May 2003.

**FAPC: People's Armed Forces of Congo (mixed)**

Current Leader: Commander Jerome Kakawave Bakonde

Commander Jerome, based in Aru and Mahagi, established FAPC in March 2003. Jerome has changed allegiances several times, moving from the RCD-ML, to the RCD-N, to the UPC and to the Ugandans but he has more or less stayed in the area of Aru. His group recently obtained support from the Ugandans who attempted to put Commander Jerome in charge of a mixed security apparatus in Bunia just prior to the start of their withdrawal. Other parties objected and Commander Jerome returned to his home at Aru.<sup>74</sup> A mutiny occurred in his ranks in May 2003 which was allegedly put down with Ugandan support.<sup>75</sup> Jerome is reportedly a Banyarwanda from North Kivu.

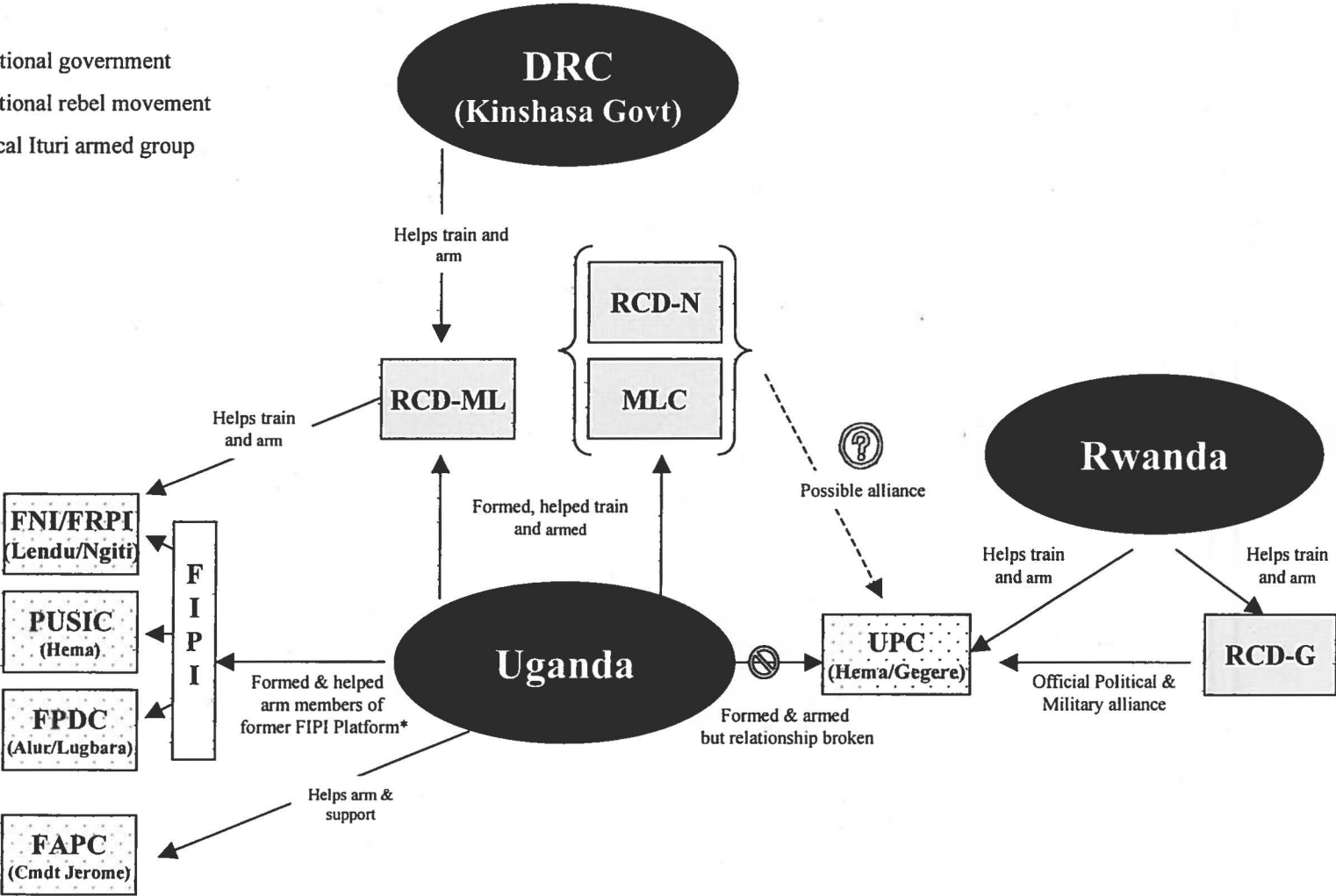
<sup>74</sup> Human Rights Watch telephone interview, Bunia, May 2003.

<sup>75</sup> Human Rights Watch telephone interview, Kampala, May 2003.



# Web of Alliances in Ituri

- Denotes national government
- Denotes national rebel movement
- ▣ Denotes local Ituri armed group



\* FIPI Platform collapsed in May 2003

Please note that alliances change frequently. This is accurate as of May 2003.

The actions of the Hema Chief Kahwa Mandro illustrate the readiness of local actors to change allegiances. Initially supported by Uganda, Chief Kahwa and some other Hema noticed a decline in this backing and decided that the Ugandan Army was not doing enough to protect them against the Lendu. Chief Kahwa Mandro explained to Human Rights Watch researchers:

In August 2000, I was fighting the Lendu in Ituri. But I was accused of being with the Rwandans and the Ugandan rebels, the ADF, so the Ugandans also started to fight with me. I decided I should go and talk to President Museveni which I did in August. He decided that my cause was noble. Our group came for training to Uganda on August 28, 2000. I was in Uganda for 6 months at Kyakwanzi training camp where 705 of us were trained.

After Sun City the Lendu started to be armed by Mbusa [RCD-ML] and so we decided we had to get rid of him. Then Lubanga was arrested by the Ugandans. We didn't understand this. I stayed in Bunia while Governor Molondo planned a genocide against us.<sup>76</sup> I started training about 3,000 fighters in Mandro with the financial help of the Hema community. We collected guns from small attacks. We had been negotiating with Uganda for three years and they had been responsible for so many deaths. No one was aware of our problem. In June 2002 I decided to go to Rwanda to find help for our defense. They had lived through a genocide so they knew what it was like. They understood me and provided us with weapons and logistics. I discussed the situation with James Kabarebe.

Initially this support was good and I thought Rwanda understood my situation, but they profited from it to create another situation. They wanted Ituri to be their rear base to attack Uganda. They continue to send arms including missiles and ammunition for tanks when we don't even have tanks. They are even sending troops. They are recruiting young soldiers and putting fear into them. They come in with small planes to airstrips like Mongbwalu, Aru, Boga and Bule. I know they do this as I used to go myself on small planes from Kigali to Ituri.<sup>77</sup>

After becoming disillusioned with Rwandan support and the policy direction of Lubanga's UPC, Chief Kahwa felt threatened. He separated from Lubanga's group and re-established links with the Ugandans. He continued:

I was on the list of people to be eliminated by the UPC. When Museveni found out about this, he sent a plane to come and get me. He encouraged me to talk to the Lendu in Kpandruma so we could stop fighting. I started a political party, PUSIC, and then became part of the FIPI coalition which wants peace in Ituri and includes Lendu plus others. I talked to President Kabila in Dar es Salaam where I told him he must stop supporting the Lendu. They were killing us. He understood.

I am going to attack Bunia again and will take it, even if I die. The Ugandan army is informed of our plans but I don't count on them for help.<sup>78</sup>

Assistance from external actors may prompt dissidents in a group to hive off and form their own organization, as Chief Kahwa did. However, external actors can also promote coalitions, including those across ethnic lines, like the FIPI group which included Hema, Lendu, and Alur political groups.

The increase in the number of combatant groups in and around Bunia has been matched by increased flow of arms to Ituri as outside actors attempt to ensure victory for their local allies. This greater availability of arms contributed to more casualties in Ituri including civilians.<sup>79</sup> In addition to being better armed than in the past,

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<sup>76</sup> See below for conflict between Governor Molondo and Hema.

<sup>77</sup> Human Rights Watch interview, Chief Kahwa Mandro, Kampala, February 22, 2003

<sup>78</sup> Ibid.

<sup>79</sup> Different estimates exist of the number of people killed in Ituri, none of which is based on a systematic survey. The UN Office for the Coordination of Humanitarian Affairs (OCHA) cited 50,000 dead in its Integrated Regional Information Network report on Ituri, December 2002.

Hema, Lendu, and Ngiti militia groups also appear to be better organized and trained and to function with a more structured military hierarchy.

### **The Hema - Lendu Conflict**

The Hema are pastoralists and the Lendu agriculturalists, but historically there was a high degree of co-existence between the two groups and intermarriage was common. Belgian colonial rule accentuated ethnic divisions between the two communities, however, by trying to reorganize traditional chieftaincies into more homogeneous groups and by favoring the Hema over the Lendu. Even after independence in 1960, the Hema continued as the administrative, landowning, and business elite. When the territory of Kibali-Ituri was created in 1962, for example, no Lendu obtained key positions in the administration. President Sese Sokoto Mobutu confirmed the Hema in management positions in the farming, mining, and local administrative sectors as part of his "Zairisation" policy. Hema and Lendu fought small battles over land and fishing rights on several occasions after independence, but in general customary arbitration, backed by the state, contained the incidents.<sup>80</sup>

At no point in the documented history of Ituri has the violence attained the levels seen since 1999. The broader war in Congo has undoubtedly sparked the greater violence of the current conflict.

This conflict began in June 1999 when a small number of Hema allegedly attempted to bribe local authorities into modifying land ownership registers in their favor in the area of Walendu Pitsu, part of the Djugu district of Ituri. They reportedly used the false papers to evict Lendu inhabitants from the land, or so some local Lendu believed. These Lendu decided to retaliate. In the absence of a strong local authority, the incident quickly turned into a confrontation between the two communities.

Ugandan interference aggravated the situation. Brig. Gen. James Kazini, then in charge of the Ugandan army in DRC, named Adele Lotsove Mugisa, a Hema, Provisional Governor of the districts of Ituri and Haut Uele<sup>81</sup>, formerly part of Orientale Province.<sup>82</sup> Although the proposal to create such a unit had been backed by some politicians in the area, it was the decree of the Ugandan general that altered administrative boundaries, effectively creating a new "province." In his letter setting up the new post of governor, General Kazini gave full assurances of Ugandan support for the endeavor.<sup>83</sup> This important decision, coinciding with the local land dispute, created the impression that the Ugandan army was siding with the Hema landholders.

By 2003 the original dispute had expanded in numbers of people and area touched by the violence. Groups like the Nande, Bira, and Alur previously not associated with either of the contenders have now been forced to choose sides.

### ***Rumor, Propaganda and Prejudice***

As conflict between the Hema and Lendu spread and became more bitter, each group turned to propaganda and myths to justify its cause. Hema and Lendu intellectuals alike distorted history for political gain, fabricating new narratives that supported their point of view.<sup>84</sup> One Hema spokesperson told Human Rights Watch researchers, "We know there is a genocide against the Hema, but we have been ignored for a long time." Other Hema evoked a connection with the Tutsi in Rwanda and claimed that the Lendu together with Interahamwe and Ugandan rebels, the ADF, were perpetrating a genocide like that of 1994 in Rwanda.<sup>85</sup> These Hema expanded the term "negative forces" to include the Lendu.<sup>86</sup> The term had previously been used to describe the Interahamwe and

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<sup>80</sup> Tensions were high in 1962, 1965, 1975, 1983, 1984, 1997.

<sup>81</sup> Governor Lotsove eventually let the Haute Uele district go its own way after it rebelled against her leadership; she retained control over Kibali-Ituri, commonly known as Ituri.

<sup>82</sup> Ugandan High Command, Brig. Gen. James Kazini to Madame Lotsove, June 18, 1999, reference OPN/SH/C/6A.

<sup>83</sup> Ibid.

<sup>84</sup> See Johan Pottier, *Re-Imagining Rwanda: Conflict, Survival and Disinformation in the Late Twentieth Century*; Cambridge University Press, 2002.

<sup>85</sup> Human Rights Watch interview with Hema leaders including Dr Dhejju Maruka, Professor Karimagi Pilo, Mr Philemon, and Mr Kiza, Bunia, February 13, 2003.

<sup>86</sup> Jean Baptiste Dhetchuvi, open letter, *Ituri - What Future?*, September 1, 2002.

ADF. Official Hema statements declared that these “negative forces” were hostile to peace and must be eliminated.<sup>87</sup> At times some Hema described the Lendu as “terrorists”.

Some Lendu and Ngiti allied with them sought to whip up anger against Rwanda, Uganda, and their local allies. The Ngiti armed group FRPI published a pamphlet charging that Presidents Kagame and Museveni sought to establish a Hima<sup>88</sup>-Tutsi empire. They claimed that the Hema, backed by Uganda and Rwanda, would carry out “ethnic purification” and eliminate the Lendu peoples (including the Ngiti) in Ituri. They urged “fierce resistance” against external aggressors and those groups complicit with them.<sup>89</sup>

In November 2002, a Lendu group, the LORI Cultural Association stressed the historical grievances of their people and called on “all Lendu to resist aggression and all forms of domination that have been a part of Lendu history.”<sup>90</sup> In a January 2002 communiqué, Lendu Chief Longbe Tschabi Linga complained about the marginalization and subordination of his community. He went on to “denounce the alliance of death between the UPC and RCD-Goma” that have resulted in the “Hema proudly singing about the extermination of the Lendu.”<sup>91</sup>

## V. MASSACRES AND OTHER HUMAN RIGHTS ABUSES

### The Attack on Bunia

In early August 2002, the UPC combatants, then in control of part of Bunia, worked together with the Ugandan army to dislodge the RCD-ML forces and take control of the town and some of its outlying areas. In the process, they committed the abuses detailed below. The taking of Bunia was the prelude to the establishment of the UPC government later the same month.<sup>92</sup>

The early August violence in Bunia demonstrates three essential aspects of the conflict in Ituri. First, all parties commit abuses. In this case it was more or less simultaneously with both Hema and Lendu armed groups killing civilians of the opposing ethnicity, often in their homes. In other cases the killing has taken place in succession purportedly as retaliation for attacks. Second, the support of external actors is important. In most cases such support remains in the background, but in this case, the aid of the Ugandan army clearly assured the UPC victory. Third, as in all other cases, civilians bore and continue to bear the brunt of the casualties.

The build-up to the August violence began in June and July as Hema militia grew more and more hostile to Governor Molondo as he integrated Lendu and Ngiti militia into the APC. Lodged at Lubanga’s house and protected by soldiers of the Ugandan army, they sought control of increasingly large parts of Bunia town. They skirmished with APC combatants on July 10 at a bar called TV5 and on July 25 at Camp Ndoromo, where the APC were training an estimated 1,200 Lendu and Ngiti combatants. On August 6 Hema combatants reportedly backed by Ugandan soldiers launched a major attack at Ndoromo and were repulsed only after fourteen hours of fighting, supposedly with the loss of two Ugandan soldiers. According to local sources, the UPC used anti-personnel mines, one of which wounded an APC soldier. Families of Lendu and Ngiti combatants fled to the governor’s residence in Bunia seeking protection.<sup>93</sup>

On August 7 and 8 UPC militia tried to occupy some neighborhoods of Bunia and in the process deliberately killed Lendu civilians and others, such as Nande and Bira, seen as Lendu allies. Lendu militia targeted and killed dozens of Hema civilians in the Mudzi Pela neighborhood and in other predominantly Hema neighborhoods like

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<sup>87</sup> Ibid.

<sup>88</sup> Hima are an ethnic group in Uganda often said to be related to Tutsi of Rwanda; Museveni is said to have had a Hima among his ancestors.

<sup>89</sup> Patriotic Force of Resistance in Ituri (FRPI), Manifesto of Resistance, January 2003.

<sup>90</sup> LORI Cultural Association, Declaration of the Lendu Community, November 16, 2002.

<sup>91</sup> Chief Longbe Tchabi Linga and the Editorial Committee, SOS of the Lendu Community in Kpandruma, January 22, 2003.

<sup>92</sup> Human Rights Watch interviews, Bunia, February 2003.

<sup>93</sup> Human Rights Watch interviews, Bunia, Beni, and Kampala, February 2003; Human Rights Watch, “Chaos in Eastern Congo: UN Action Needed Now, A Briefing Paper, October 2002.

Saio, Rwambuzi, and Simbiliabo. Both sides burned houses, displacing large numbers of civilians.<sup>94</sup> A witness said:

On August 7 the young Hema militias chased the Bira and the Lendu in Bunia. They knew which houses to go to and whom to target. There were about 200 of them, a mix of those in uniform and in civilian dress. They killed a lot of people that day – about thirty-seven – though I think there were more. A few days later, on August 9, they were buried by the Red Cross and the chief of the area. They included men, women and children. The killing went on from 7:00 a.m. till about 1:00 p.m.<sup>95</sup>

Outside of town, at Lengabo, Lendu and Ngiti militia deliberately killed thirty-two Hema civilians who had sought refuge at the farm of Tibasima Ateenye, a Hema leader once linked with the RCD-ML but at this time resident in Kinshasa. A witness reported:

Thirty-two Hema people died there [at Tibasima's farm]. I counted them. About seven died from bullets while the rest had died from machete wounds. This attack really increased the tensions. Some of the injured came to Bunia. They had even cut off the legs of one child and the arm of another.<sup>96</sup>

The militia reportedly killed two Ugandan soldiers who had been protecting the Hema at the farm and drove the others away. It is unclear whether these Ugandan soldiers sought to protect Hema from a sense of duty—in contrast to their fellows who did nothing or joined in killing Hema—or whether they had been privately hired to protect Tibasima's farm, an arrangement that Ugandan soldiers sometimes made for their own profit.<sup>97</sup>

On August 8, 2002 the Governor met with Ugandan army commanders to appeal for restraint in the town. He said that the Ugandan army was there to provide security, not to take sides. According to a witness at the meeting, one of the Ugandan army commanders threatened Governor Molondo, saying that he had been ordered by the highest military level in Kampala to neutralize him.<sup>98</sup> At 8:00 p.m. that evening the Ugandan army attacked the governor's residence. The attack lasted for only ten minutes but was enough to cause further panic in the town. The Lendu, fearing for their lives, ran to the governor's residence for protection as killings continued in Mudzi Pela and other areas of Bunia.

On August 9, 2002 at 2:00 p.m. the Ugandan army, followed by the UPC, again attacked the governor's residence and the surrounding neighborhood, known as the *sous-region*, using heavy weapons including tanks. After a short battle, Governor Molondo and APC troops fled on foot towards Beni. After they left, UPC combatants continued killing Lendu, Nande, and Bira civilians near the main hospital in the Bigo neighborhood and near the central prison. A witness reported:

On August 11 I was finally able to go to the governor's residence. I saw the Ugandan army and the Hema looting the houses. In the house of a military commander called Pichu there were five bodies of women including the wife of Pichu and four others. All had been shot and his wife had a bullet in the head. At the next house I found another three bodies – one woman and two children. There were still people seeking refuge there. Further along I found the body of a small child. That really shocked me. At the vice-governor's house I saw seventeen bodies, including women and children. After seeing all this I returned to where I was staying. I was scared.<sup>99</sup>

Several mass graves have been discovered, including two near the governor's residence and others near the prison and the hospital. According to MONUC, 110 people died in the violence in and around Bunia, but local sources

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<sup>94</sup> Ibid.

<sup>95</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>96</sup> Ibid.

<sup>97</sup> Human Rights Watch, "Chaos in Eastern Congo."

<sup>98</sup> Human Rights Watch interview, Beni, February 2003. See also Human Rights Watch, "Chaos in Eastern Congo."

<sup>99</sup> Human Rights Watch interview, Kampala, February 2003.

estimated the dead as at least 150. The victims included both Hema and Lendu civilians many of whom had been targeted only on the basis of their ethnicity. Several mass graves were subsequently discovered including one with twenty-six bodies of mostly women and children, many with bullet wounds in their backs.<sup>100</sup> Some witness said that victims were also thrown in the Chari River.<sup>101</sup>

The Ugandan army backed the UPC attack that deliberately killed large numbers of civilians. In addition, they failed in most cases to protect civilians who were being targeted for killing in and around the town, despite having large numbers of troops available less than a mile away. Ugandan soldiers also joined UPC and others in looting homes and shops. Major David Muhoozi and Captain Eddy Muwonge of the Ugandan army disclaim responsibility for these abuses, saying this was “a Congolese matter”.<sup>102</sup>

## Massacres and other Abuses by the UPC

### *The UPC Government and the Growth of Extremism*

The UPC was the first ethnically- based political party established in Ituri. Its formation of a government under Thomas Lubanga in August 2002 sparked the creation of several other ethnically- based movements seeking to counter its growth. (See box above.) Initially the UPC claimed to be a national and representative movement, created by Iturians, for peace and reconciliation in the area. It was reportedly financed by key Hema businessmen in the region who supposedly had a controlling hand in many political decisions.<sup>103</sup>

From August 2002 to March 2003, the UPC controlled Bunia and the immediate surrounding area, including most parts of the Djugu territory just to the north. Although it claimed to control all of the former district of Ituri, it did not control Mambasa to the west and the area of Kpandruma and Rethy to the north where the Lendu had their base. It exercised only sporadic control over the Alur and Lugbara areas near the Ugandan border. During this period, the former Governor of Ituri, Jean-Pierre Lompondo Molondo appointed by Mbusa Nyamwisi of the RCD-ML, claimed to still govern the western parts of Ituri that were under the military control of the APC.

On paper the UPC government appeared representative with a number of ministers from other ethnic groups, but in practice it was controlled by the Gegere – the northern branch of the Hema ethnic group. Some representatives of other ethnic groups joined the movement and the government under duress. One such minister said,

I decided to enter the UPC for security reasons and not because I wanted to. I was desperate to protect my family. A lot of people were disappearing and I felt I had no choice. Everyday I go to work and to the movement meetings, but my heart is not in it. There are many others in a similar position.”<sup>104</sup>

Other persons unwilling to join the UPC or its government fled or went into hiding when they heard they had been nominated to government posts.<sup>105</sup>

At about the time the UPC established its government, a group composed mostly of Gegere attempted to set a more clearly anti-Lendu policy for the party. The group reportedly included Adele Lotsove Mugisa, Jean Baptiste Dhetchuvi, and Richard Lonema, an influential local Hema spokesperson. According to Hema now estranged from the UPC, this group together with Lubanga—whom they may have led rather than followed—advocated eliminating the Lendu and Ngiti in order to end ethnic conflict once and for all. They reportedly proposed killing key Lendu and Ngiti leaders, especially intellectuals, and cutting economic links to Lendu communities.<sup>106</sup>

<sup>100</sup> Human Rights Watch interviews, Bunia, February 2003.

<sup>101</sup> Human Rights Watch interviews, Bunia, February 2003.

<sup>102</sup> Human Rights Watch Interview, Major David Muhoozi and Captain Eddy Muwonge, Bunia February 2003.

<sup>103</sup> Human Rights Watch interviews, Bunia and Kampala, February 2003. See also U.N. Security Council, “Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC,” S/2002/1146, October 16, 2002, paragraph 121.

<sup>104</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>105</sup> Human Rights Watch interview, Beni, February 2003.

<sup>106</sup> Human Rights Watch interviews, Kampala and Bunia, February 2003.

A Hema now opposed to the UPC said, "Meetings of the movement became divisive as a core group including Lotsove, Lubanga and Dhetchuvi held meetings apart in Kilendu, a language not spoken by Hema from the south. It was clear to us they had a different vision."<sup>107</sup> Some UPC members claimed they opposed the new direction. One such person explained, "When we came to power the logic of the movement changed to eliminating the Lendu and the Ngiti. I was against this and told the leadership this."<sup>108</sup> After protesting, the dissident believed the leaders planned to kill him and he fled for his life.

Against this backdrop of growing extremism, the UPC pressed for autonomy for Ituri. In public statements they asked, "Why should non-Iturians be managing our territory?"<sup>109</sup> and they argued that if the national government took control of the area it would loot Ituri, as had others. Some UPC leaders talked in terms of the new division of people into "originaires" and "non-originaires".<sup>110</sup> While it was never completely clear who were "originaires", many people understood them to be Hema and Gegere. People of other groups feared and resented this UPC claim to being the original inhabitants of the area.

### ***Attack at Mabanga***

As UPC leaders began defining anyone not on their side as "the enemy", Hema and Gegere armed groups attacked other groups that had previously seen themselves as neutral in the conflict. In Mabanga, a gold mining town inhabited by several ethnic groups, for example, Gegere militias turned on the "non-originaires" on August 28, 2002. An attack by Lendu militia had just been repulsed and the local Gegere combatants forced the "non-originaires" to join them in chasing the retreating Lendu fighters. After driving the assailants to a safe distance, the Gegere combatants turned on the "non-originaires." A witness recounted:

When we returned from the fighting, the Gegere said that all those who spoke Swahili and were non-originaires should leave straight away. Then I saw a group of Gegere who had come from Iga Barriere. They were in civilian clothes, running together and were well armed with spears, machetes, chains, and guns. They were chanting, "Non-originaires slaughtered, Bira killed." Within minutes of their arrival they started to kill people. If they saw you and you were light skinned they would kill you shouting "jajabo"<sup>111</sup>. They were slashing people with their machetes on their arms and their heads. I saw them kill people. They killed Mr. Totosca and also Ramon Faraho – two people that I knew. They hacked them to death with their machetes and then burned them.<sup>112</sup>

### ***Massacre at Songolo***

The UPC moved south after establishing its hold over Bunia and surrounding areas. The Ngiti, a people related to the Lendu, who lived in this area felt increasingly under pressure as the UPC took market towns and key roads. Those living near Nyakunde were particularly concerned because they had a history of land disputes with the locally important Bira. During the August violence in Bunia, the Hema had attacked the Bira, lumping them together with the Lendu. But in this area, perhaps because of the competition over land, the Bira were more often allied with the Hema and wanted to drive away the Lendu, seeing their presence as a potential reason for attracting war to their region.<sup>113</sup> In August 2002 UPC troops replaced a small Ugandan force that had withdrawn

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<sup>107</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>108</sup> Ibid.

<sup>109</sup> Jean Baptiste Dhetchuvi, open letter, *Ituri – What Future?*, September 1, 2002.

<sup>110</sup> "Originaires" and "non-originaires", meaning indigenous and non-indigenous. The French term is used throughout as it has a specific relevance in Ituri. The ethnic groups who are "originaires" tend to include Hema, Bira, Lendu, Ndo Okebo, and Alur although this is contested. In practice since the Lendu are considered the "enemy", the concept "originaires" for the Hema excludes them.

<sup>111</sup> Local term for Lingala speakers not from the Ituri region.

<sup>112</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>113</sup> This was done by the Bira Chief of Andisomma. It was likely also linked with historical tensions between the Bira and the Ngiti over land. Much of this history has not been forgotten by either group and is often cited as further justification for killings by both sides. Human Rights Watch interview, Oicha, February 2003.

from Nyakunde the week before. Several Ngiti civilians were killed in late August, for which many Ngiti held the Hema combatants responsible.

Colonel Khandro and others from a group of Ngiti combatants reportedly met with Ngiti community leaders at Songolo, a town some ten miles from Nyakunde to discuss possible military action against the Hema. The community leaders appealed for restraint and got the combatants' agreement not to attack Nyakunde and to launch military operations only in self-defense.

In the early hours of August 31, 2002, the UPC together with Bira attacked Songolo. A witness recounted:

The UPC and Bira attacked in three groups, about 500 of them, coming from three different directions. They had military uniforms. Most of them were UPC. Commander Bagonza ordered the troops to attack Songolo. He was there himself; I saw him. They were together with Bira in civilian clothes who had machetes and spears. In the center of Songolo there was a clash between Ngiti fighters and the UPC and Bira. They used mortars and rockets. We saw this from where we were, at the bottom of the hill. Nine Ngiti combatants were killed and more than twenty Hema/UPC.

Then the Bira combatants guided the UPC to the houses. They killed people, most with bullets, others with machetes and spears. I saw mostly old people killed. Some were attacked in their sleep, including children and women. The Bira combatants also decapitated some people with machetes. There were 140 dead, including many women and children. We asked people to come out of the bush to bury the dead. We took turns doing the burial.<sup>114</sup>

The attack lasted about nine hours. Witnesses "felt surrounded" as the attackers entered the town, cutting off escape routes, including the small footpaths. One said:

I hid in the mountains and went back down to Songolo at about 3:00 p.m. I saw many people killed and even saw traces of blood where people had been dragged. I counted 82 bodies most of whom had been killed by bullets. We did a survey and found that 787 people were missing – we presumed they were all dead though we don't know. Some of the bodies were in the road, others in the forest. Three people were even killed by mines. Those who attacked knew the town and posted themselves on the footpaths to kill people as they were fleeing.<sup>115</sup>

Ngiti community leaders sought help by informing MONUC in Bunia and submitting a report about the events. MONUC did report back to its Kinshasa headquarters on September 3, 2002 that UPC soldiers were seen looting in Songolo,<sup>116</sup> but otherwise there was no action taken. Ngiti combatants accused the community leaders of letting their people down "as the reports meant nothing."<sup>117</sup> They began planning a reprisal attack against the Hema which was carried out on September 5, 2002 in Nyakunde (see below).

### ***Massacre at Mongbwalu***

Mongbwalu, an important gold mining town northwest of Bunia at the heart of the Ashanti Goldfields' concession, changed hands frequently in a series of attacks and counter-attacks during this conflict. In mid-June 2002, while the RCD-ML were still in control of Ituri, their forces and Lendu militia attacked Hema civilians in the town while Hema militia targeted Lendu civilians in outlying areas. For greater security people moved to areas inhabited by others of their ethnic group, a move facilitated apparently by local chiefs. Many Hema civilians left Mongbwalu through "safe corridors" to other areas. Those who decided to stay faced abuses by the Lendu, including the summary execution of women and children accused of being witches (see below).

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<sup>114</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>115</sup> Human Rights Watch interview, Beni, February 2003.

<sup>116</sup> Internal MONUC correspondence, September and October 2002.

<sup>117</sup> Ibid.



When the UPC took power in Bunia in August, they were keen to take Mongbwalu to have access to its gold mines. In October they attacked the town but were pushed back by the Lendu combatants and APC soldiers. The UPC regrouped and in late November 2002 attacked again, this time joined by some of Bemba's MLC soldiers, some Ugandans, and perhaps some Rwandans.

Bemba's MLC forces had been in the area for several weeks along with troops of Lumbala's RCD-N troops. They were trying to push east into parts of Ituri controlled by their rival Mbusa Nyamwisi's RCD-ML (see below). Their campaign was known as "effacer le tableau" (Operation Erase the Blackboard) so witnesses referred to Bemba's soldiers as the "Effaceurs." Numerous witnesses also said that Ugandans helped the UPC. One said, "The Hema and the Ugandans were always together."<sup>118</sup> Another witness explained their tactics, saying the Ugandans led and the Hema were behind during the attack.<sup>119</sup>

In their second attack, the UPC used heavy weapons, including mortars and other explosive devices, probably made available to them through one or the other of their outside backers. They began their attack at a village called Pluto on the outskirts of Mongbwalu. A witness recounted:

The Hema of the UPC, Ugandans and the "Effacer le Tableau" [MLC] came at 11:00 on Friday. They all worked together and attacked Pluto just outside Mongbwalu. They entered directly with their guns to shoot at the population. I was at home in Pluto and I heard cries and mortars falling and I knew the war had started. I fled from Pluto and ran to Mongbwalu. I saw that it was soldiers attacking us as they had camouflage uniforms and some had black berets. They all had guns and they were everywhere.

As I was running I saw people being hit by bullets. Women and children were falling. Some people did not run and hid in their houses in Pluto. I heard afterwards that these people were all slaughtered. The assailants continued to kill people for five days in Pluto. People who escaped from Pluto told me this, although not many managed to find their way out.

They then attacked Mongbwalu as well and I was forced to flee again to Saio, about three miles from Mongbwalu. The attackers were looking for Lendu, Ngiti, and Nande people. The Hema combatants knew us so they could easily find who we were. Other people were killed as well though. Not much later they also came to attack us in Saio. I had to flee again. They killed many people.<sup>120</sup>

Another witness told what happened in Mongbwalu itself:

The Hema and the "Effaceurs" [MLC] came into town and started killing people. We hid in our house. I opened the window and saw what happened from there. A group of more than ten with spears, guns and machetes killed two men in Cité Suni, in the center of Mongbwalu. I saw them pull the two men from their house and kill them. They took Kasore, a Lendu man in his thirties, from his family and attacked him with knives and hammers. They killed him and his son (aged about 20) with knives. They cut his son's throat and tore open his chest. They cut the tendons on his heels, smashed his head and took out his intestines. The father was slaughtered and burnt.

We fled to Saio. On the way, we saw other bodies. ... They were shooting anyone, just shooting. Anyone caught by the bullets died. Most of the people were killed by bullets. There were also many people killed at the airport, with machetes and guns. There were even more bodies there, more than thirty.<sup>121</sup>

A gold digger who worked in Mongbwalu said:

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<sup>118</sup> Human Rights Watch interview, Erengeti, February 2003.

<sup>119</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

There were two groups of Hema militia: one with firearms, the other with machetes, spears, and mukuki (a sharp knife attached to a piece of wood which is thrown). The second group was killing civilians who hadn't fled. The victims were Lendu and Jajabo. The Hema militia didn't have any pity for people. They slashed them with machetes and killed them.<sup>122</sup>

Many civilians fled with the Lendu combatants to Saio, a few kilometers away. When the UPC, MLC, and Ugandan assailants followed them there after taking Mongbwalu, some civilians ran into the forests while others tried to hide in Saio, including at a church called "Mungu Samaki." When UPC combatants found the people in the church, they slaughtered them.<sup>123</sup>

The UPC combatants captured other civilians and imprisoned them at a military camp, where they later killed them. A man who was imprisoned there told Human Rights Watch researchers:

I was taken to the prison and could see out the window of my cell. The Hema militia were killing people from particular groups. They were especially looking for Lendu. They would pick out prisoners to kill. They took them one by one to question them, then they released them or killed them. They shot people in front of other prisoners. They tied their arms behind their backs with wires. They slashed their heads with knives. They made them sit down and then they shot them. They also shot any who tried to escape. Sometimes they took people outside and they never came back. They killed about twenty people, including some boys I knew from my neighborhood. I even saw them kill two Pygmies – a man and a woman. Another woman came to the prison to look for her son. They asked her why she had come there and then they killed her. They beat us with whips and ropes. They questioned me too. They asked me where the Lendu and the APC had fled to. I didn't say anything. I managed to escape the following day. I saw more than ten bodies outside the prison. The Hema militia were everywhere in Mongbwalu and I hid so they wouldn't see me. I saw holes, like graves on the edge of town. They were freshly dug and covered with earth. I presumed there were people inside.<sup>124</sup>

Based on witness statements, local human rights organizations estimate that at least 200 people were killed in and around Mongbwalu, but the death toll could be much higher. The victims include Freddy Bosama, Lokana Kpakani, and two teachers called Budhe and Lossa.<sup>125</sup> A witness related:

Six days later I returned as I knew some Hema and I wanted to collect my things. There were only combatants in Mongbwalu and they had looted everywhere. I saw that many Hema had returned to move into Lendu houses. I counted five bodies of civilians including women and children. I had come into Mongbwalu from the forest with another girl who was on her way to Saio. I saw her again later and she told me that there were many bodies along the side of the road. Many houses had also been burnt. The soldiers took many young men that day to bury the bodies of the people they had killed.<sup>126</sup>

Abbé Boniface Bwanalunga, the Ngiti priest of Mongbwalu parish, disappeared during the November attack. There are reports that the UPC combatants detained him along with two nuns. The nuns were released and later returned to bring food to the abbé, but the UPC combatants refused them permission to see him and told them to go away and not come back again. Abbé Bwanalunga has not been seen since.<sup>127</sup>

The co-operation between Bemba's MLC and Lubanga's UPC was new. The UPC may have been exploring the possibility of a real alliance with the MLC while it seems that the MLC was interested in getting access to Mongbwalu's gold. A witness who returned to Mongbwalu after the attacks said:

<sup>122</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>123</sup> Justice Plus interviews, Ituri, March 2003.

<sup>124</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>125</sup> Justice Plus interviews, Ituri, March 2003.

<sup>126</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>127</sup> Human Rights Watch interview, Bunia, February 2003.

At that time it was clear the UPC were in charge. Commander Bosco had been at the head of the attack but he didn't stay long after it was over. The troops of the MLC were led by the UPC. They all spoke Lingala. I spoke to a person I knew from this group. He told me that the UPC from Aru had asked them to come and attack Mongbwalu. They had been promised gold if they helped. As soon as they had captured Mongbwalu they set up a system of collecting taxes and gold from people who were mining.<sup>128</sup>

Soon after the attack, the UPC attempted to start up the gold operations. This required labor and the most experienced diggers were Lendu and "non-originaires". The UPC sent out messengers to encourage the population to return. According to a witness, "The UPC commander said in a meeting that the UPC was for everyone. He asked the population to return, especially the Lendu, but they refused."<sup>129</sup> When a few people returned, the UPC tried to use them to persuade others to come also. A witness said:

Gbala also came back and the Hema asked him to go into the forest and call for the others to return. He did go into the forest and told the people the truth, that their homes had been looted. Some people refused to return but others did. When Gbala returned on 16 December 2002 he was arrested and accused of being against the UPC as he had denounced the looting. He was taken to prison and then killed.<sup>130</sup>

Because most Lendu refused to return, UPC troops forced others to begin mining. A witness said:

Many people fled but those who stayed in Mongbwalu were made to work for the Hema militia digging gold. There were three shifts: those who worked in the morning, those who worked in the afternoon, and those who worked at night. They were not paid. It was hard labor. They had to dig under big stones without machines. They had only hand tools like pick-axes. They were given bananas and beans to eat and they were beaten. Some tried to run away by pretending to go to the toilet. The Hema militia were keeping watch over the workers. As the Lendu had fled, all the other groups were made to dig. I saw them working there on the first day. The Ugandans were also there to ensure security. If they hadn't been there, it would have been terrible. The quarry belonged to Mr. Baou. Before, everyone used to dig gold, but the Lendu were considered the experts.<sup>131</sup>

In this case Ugandan soldiers present to protect the gold mining operations apparently also limited militia abuses of persons forced to work there.

Local witnesses report that some Rwandans were present during the Mongbwalu attack, claiming they recognized them by their language, their accents, and their appearance. According to one person, Lendu combatants captured several Rwandans along with Ugandans in the fighting. He said, "They found their ID cards which showed they were Ugandan and Rwandans. I saw them bringing Rwandans into Saio. The Lendu called out to us to come and see the Rwandans they had captured."<sup>132</sup>

With the tension between Uganda and Rwanda, it is unlikely that regular soldiers of their armies would have cooperated in military operations, but it is possible that dissidents or rebels from one force could have joined with regular forces from the other. Such was the report in one journal that specializes in mining affairs. The Rwandans, reportedly already supplying training and arms to the UPC, would have been prompted in part by a desire to exploit local resources in gold. Lubanga reportedly promised to ship the gold out through Kigali rather than through Kampala.<sup>133</sup>

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<sup>128</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

<sup>131</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>132</sup> Human Rights Watch interview, Erengeti, February 2003.

<sup>133</sup> "UPC Rebels Grab Mongbwalu's Gold", African Mining Intelligence No. 53, January 15, 2003.

Establishing the identity of all the perpetrators of abuses at Mongbwalu will require further investigation. What is already known is that civilians suffered enormously from their exactions.

In addition to the cases documented above, Human Rights Watch researchers collected information on deliberate killings of civilians by UPC combatants at Bolombo in late August or early September 2002 and at Zungulouka in October 2002.

### *UPC Abuses of Lendu and Others Seen as Political Opponents*

Soon after taking power in Bunia and with extremists in powerful positions, Lubanga's UPC launched a campaign of arbitrary arrests, executions and enforced disappearances. Witnesses described it as a "man hunt" for Lendu, Ngiti, "non-originares," and others opposed to extremist UPC policies. Many fled and others went into hiding. Wherever the UPC took control, it initiated a campaign against the "enemy," including in Bunia, Mahagi, and Aru. The campaign was systematic and often involved torture and apparently was authorized at the most senior levels of the UPC leadership.

Commanders Bagonza, Kisembo Bahemuka (UPC Chief of Staff), and Rafiki Saba Aimable (UPC Chief of Security Services) reportedly directed the campaign. Two prison areas in Bunia became notorious as places of execution and torture. These included Bureau Deux<sup>134</sup>, an old warehouse on one of the main streets in Bunia and the house of Commander Bagonza himself just off the main street in the center of town. Human Rights Watch researchers collected information about more than 100 people victimized by this campaign, including the cases described below.

On September 28, 2002, Adriko Johnson, the thirty-year-old assistant mayor of Bunia and a leading member of the UPC, disappeared after a party meeting. A number of Lendu testified that Mr. Johnson had given them refuge at his house when UPC troops were searching for Lendu in August.<sup>135</sup> Other witnesses testified that Johnson had wanted to end the targeting of the Lendu and Ngiti, arguing that the movement could not be based on one ethnic group. According to reports, he was taken to the house of Commander Kisembo, the UPC Chief of Staff, the night he disappeared. Here he was interrogated and then executed a few days later. No body has ever been found. Friends and family members called on the UPC to launch an investigation. One told Human Rights Watch researchers, "When we inquired about where he was the UPC wouldn't say. They said they would do some research but they didn't. The UPC security services say it is a very complicated case but until today we know nothing. We even spoke to the Ugandans and President Lubanga but they also did nothing. We have just received silence."<sup>136</sup>

Chief Bulamuzi Dieudonné, a forty-year-old traditional chief from Nyakunde, was killed in Bunia on September 5, 2002. He had been asked to join the UPC but had refused. He was allegedly tortured in Bureau Deux and was then released. That same evening, six UPC soldiers came and shot him dead about 100 meters from his house.<sup>137</sup>

A young student, accused of being a Lendu combatant, was taken by the UPC militia to an underground prison in the compound of the governor's residence in Bunia where he spent at least four days with some corpses. He was then taken to the prison of Commander Bagonza where he was tortured so severely that he still bears scars all over his body. The torturers put a stone in his mouth and stamped on his head. He shouted and fainted. They woke him up by whipping him and throwing water on him. Nearby Ugandan soldiers heard him shouting and intervened to stop the abuse. He later escaped.<sup>138</sup>

Persons suspected of being in contact with the DRC government or with RCD-ML authorities in Beni were considered enemies and often subjected to arbitrary arrest, torture, and sometimes execution:

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<sup>134</sup> This is the term used by local residents.

<sup>135</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>136</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

On December 9, 2002 I was talking with my family in Aru when UPC soldiers entered the compound. [Commanders] . . . ordered the soldiers to shoot anyone who tried to flee. They forced us to strip, tied us up, and made us lie face down. Then they hit us with large sticks all over our legs, buttocks, and backs. One of the commanders accused us of communicating with Kinshasa, Beni, the Lendu and Aru to bring the war to Bunia, but I was just a student. He said they were trying to find fuel to burn me. I prayed and they laughed at me saying God couldn't save me. I was then taken to the house of one of the commanders and put into a large hole in the ground. They beat us till we cried. There were other prisoners in the hole who were in a terrible state. We were 20 in total. There were two Lendu men who looked as if they had been really badly beaten: Ngdjole and Lobo, who had a broken arm, and a Nande man called Kasiko. The night of December 12 the soldiers came with guns and called these three men. All day long they had been taunting them, asking them how they wanted to die. We shouted at them saying what they were doing was illegal. But they took the men anyway. We heard them cry and ten minutes later the soldiers came back. I was told the three men had been killed. It wasn't a normal place; it was a place of execution.<sup>139</sup>

In this case and those detailed below, witnesses identified their torturers by name to Human Rights Watch researchers.

On November 11, 2002, UPC authorities arrested the most senior judge in Ituri, Jacques Kabasele, accusing him of having contacts with their enemies. The judge related:

I was at home when two people from the DGM [Department of Internal Security] together with a soldier told me that I had been summoned by their boss. They handed me a "bulletin des services" which said that I was required for an investigation. They arrested me and took me to one of the prison cells at the DGM. For two days I waited. There was no formal charge placed against me nor was I allowed access to a lawyer. On November 13 at 7:00 p.m. a team came to interrogate me including officials from the DGM. They asked me many questions about whether I had been in contact with Beni, Kinshasa, or the outside world. They accused me of being in contact with Kabila, Mbusa Nyamwisi, and former Governor Molondo but I had not. They told me the order for my arrest had come from President Lubanga and then they left. I was not physically threatened and I believe they were more careful than usual as they were aware of my knowledge of the law.

They kept me in prison for eighteen days and then released me. No formal charge was laid against me. I requested an official document to explain my absence from work and also I wanted my record cleared but I received no document. The UPC President Lubanga refused to meet with me.

I cannot move around freely and I often do not sleep in my own house. People here are afraid. The UPC does whatever they like and have no respect for the law.<sup>140</sup>

Not only senior officials but also ordinary workers were accused of betraying the UPC. Bicycle carriers, known locally as Kumba Kumba<sup>141</sup>, were suspected of carrying messages from Beni or Mongbwalu to Bunia. On August 23, 2002, UPC authorities went to a warehouse where the bicycle carriers usually picked up their goods. They arrested eleven men including Mahamba Kisala, Tavugha Nzuva, Kalandero Kambale and Sivyalo Ndungo. A witness said:

The UPC asked the carriers for their ID cards. Most of them have two ID cards in order to facilitate their work – one where they are from and one to where they are going. This is quite common. But the UPC

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<sup>139</sup> Human Rights Watch interview, Arua, February 2003.

<sup>140</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>141</sup> Lingala word meaning people of the bikes.

used this as an excuse to arrest them and they also asked them for money. They took them to Bureau Deux and they have not been seen since.

Some days later bodies were thrown into the Chari River in Bunia. I don't know how many bodies there were but someone I know. . . recognized the bodies as those of the Kumba Kumba who had been arrested earlier. There is now no more transportation on bicycles as people are too scared.<sup>142</sup>

A similar campaign was carried out in areas in northern Ituri such as Mahagi and Aru where UPC troops threatened, tortured, and killed many business people involved in trade with the Lendu. Two Alur businessmen said:

On November 23, 2002 we were arrested on the road in Aru by two UPC Commanders. They took us to their headquarters and then four soldiers beat us with sticks for over an hour on our backs, legs and buttocks. They accused us of being pro-Lendu and against the UPC. After beating us they put us in a container<sup>143</sup> that they used as a prison. There were another four people besides us held prisoner there. We were kept for eleven days. Our wives had to pay the UPC \$4 per meal to feed us. After pressure from others, we were released and then we fled. There are many others like us here.<sup>144</sup>

Concerned about their abuses becoming known, UPC authorities also targeted those who had talked to MONUC and international journalists. A Lendu student suspected of contacts with MONUC said:

The UPC soldiers arrested me on October 29, 2002 and took me to the home of one of the commanders. I saw him on the veranda. When we got there, they threw me to their colleagues. They kicked me and hit me with the butts of their guns. They undressed me. They dragged me to a shallow well and threw me in it. They hit me with stones. I put my arms over my head. They asked me what I was doing at MONUC but they didn't let me answer. There were seven of us in total in a space of two square meters. Other prisoners said that the day before, soldiers had shot dead a Lendu civilian prisoner. The next morning, the soldiers took me to the commander who interrogated me about my contacts with MONUC. I told him. He said: "if you continue lying, you will end up dead like the others." He questioned me for about fifteen minutes.... When I went to fetch the water, they beat me with sticks, like a goat. Then they put me in the well again. I was released only because MONUC intervened.<sup>145</sup>

The MONUC team in Bunia knew of some of these cases of arbitrary execution, arrest, and torture and reported some twenty of them, involving scores of people, to MONUC headquarters in Kinshasa in September and October 2002. These reports included one on September 9 about thirty-three local businessmen arrested by the UPC; another on September 12 about the slaughter outside Bunia of ten men and six women, whose bodies were then thrown in the river; and yet another on September 14 about a businessman arrested by the UPC and later found dead in Bunia town.<sup>146</sup> Despite these reports, no human rights staff from MONUC headquarters came to investigate the matter until January 2003 and no public denunciations were made concerning these serious abuses. In several cases, however, MONUC staff intervened at the time to stop abuses and to arrange the release of persons arbitrarily arrested.<sup>147</sup>

Honoré Musoko, a lawyer and president of Justice Plus, a human rights organization based in Bunia, sought to defend several victims abused by UPC authorities.<sup>148</sup> He then found himself accused of working with the former Governor Molondo and of being an enemy of the UPC. Maitre Honore fled the region in November 2002 but

<sup>142</sup> Human Rights Watch interview, Bunia, February, 2003.

<sup>143</sup> Large shipping containers are often re-used in central Africa as prisons.

<sup>144</sup> Human Rights Watch interview, Arua, February 2003.

<sup>145</sup> Ibid.

<sup>146</sup> Internal MONUC correspondence, September and October 2002.

<sup>147</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>148</sup> He had previously been arrested by RCD-ML authorities for having given an interview on Voice of America about human rights abuses they had committed.

UPC authorities raided his organization, Justice Plus, on February 5, 2003 after he gave an interview on international radio about human rights in Ituri. Finding the Justice Plus office empty, the UPC authorities then went on to the office of Bunia Business Communications, which is owned by Maitre Honoré. There they arrested two workers and seized a satellite phone and computer equipment. The two workers were later released without charge but fearing similar treatment, other members of Justice Plus went into hiding.<sup>149</sup>

When Human Rights Watch researchers raised this case with UPC President Lubanga and UPC Foreign Minister Jean Baptiste Dhetchuvi, they responded that the equipment had been seized because it was being used for “negative propaganda.” They had taken the equipment, they said, to “make them think and calm them down,” adding that human rights activists were “creating dangers for themselves.”<sup>150</sup> Within a day of this meeting, the equipment of Justice Plus was returned.

A foreign journalist, Gabriel Khan, drew the ire of UPC leaders when he reported in early 2003 on international television about the plight of more than 100 Lendu who had taken refuge in an abandoned house in Bunia. In an interview with Human Rights Watch, Lubanga labeled Khan an unrepentant “criminal” and blamed him for “having turned Ituri into an explosive area.” He accused him of having “given false information to the public which is worse than using firearms or machetes.”<sup>151</sup> UPC authorities particularly resented Khan’s having broadcast a statement by a Lendu man who said he did not want Ugandan soldiers to leave because he feared the Hema would kill him if they did.

As of this writing, it appears that UPC authorities have investigated none of these abuses nor have they held anyone accountable for them. Many of those involved in the human rights abuses continue to hold senior positions in the UPC.

#### **Massacres and Other Abuses by the APC and by Lendu and Ngiti Armed Groups**

Lendu and Ngiti combatants massacred civilians of the Hema, Gegere and sometimes the Bira groups in late 2002. Among the cases documented by Human Rights Watch researchers were the slaughter at Komanda in August and early September 2002; at Nyakunde on September 5, 2002; at Nizi on October 11, 2002; and at Blukwa and Logo in October 2002. Often seeing themselves as victims, the Lendu and Ngiti combatants apparently believed their attacks to be justified reprisals against previous instances of Hema violence. Supported by the RCD-ML of Mbusa Nyamwisi, and through it by the DRC Government, the Lendu and Ngiti groups have at times carried out joint operations with APC troops. In response to the rise to power of the Hema group through the UPC, the Ngiti and Lendu have also established their own political parties including the Front for National Integration (FNI) and the Patriotic Force of Resistance in Ituri (FRPI), which work closely together. FRPI is often seen as the military arm of the FNI. Some of the leaders of these massacres later played important roles in these parties.

#### ***Nyakunde Massacre***

In response to the UPC attacks on Songolo described above, the Ngiti Colonel Khandro and an APC Commander called Faustin launched a reprisal attack on Nyakunde on September 5. Over a ten day period these forces systematically massacred at least 1,200 Hema, Gegere, and Bira civilians in the town and in the Center Médical Evangélique (CME), a church-supported hospital.<sup>152</sup>

During the attack, Commander Faustin reportedly told the hospital staff that Ngiti combatants wanted to attack the hospital, one of the largest medical facilities and training centers in eastern DRC and one staffed by several expatriate doctors. They saw the attack as a way of attracting international attention to their cause. He claimed that he personally opposed this plan. In accord with RCD-ML leader Nyamwisi, he wanted to focus the attack on

<sup>149</sup> Human Rights Watch interviews, Bunia and Kampala, February 2003.

<sup>150</sup> Human Rights Watch interview with Thomas Lubanga, Bunia, February 14, 2003.

<sup>151</sup> Ibid.

<sup>152</sup> This figure is based on information collected from a variety of sources, including eyewitnesses and others who collected bodies for burial. Many of the victims were buried in mass graves in Nyakunde. It is likely that the number killed is actually much higher.

defeating UPC soldiers and capturing Nyakunde as a prelude to retaking Bunia. Commander Faustin said that he and the Ngiti had finally agreed to attack the UPC camp and kill the Hema found there and then to loot the commercial center, but to leave the hospital untouched.<sup>153</sup>

If there were such an agreement, some Ngiti combatants showed immediately that they would not observe it. A witness related:

I saw a column of Ngiti coming down the mountain. As the groups entered town they went into different directions in quite an organized way. One group went to the left and another to the right to surround the airstrip. A few moments later we heard shots from three different directions like a signal. Then a second group came down the road towards the center of town. I heard the commander shout "Do not touch the hospital". Then a third group appeared a few moments later. Their commander also shouted at them not to touch the hospital but they disobeyed him straight away and entered the hospital grounds where they started to kill people. I witnessed their killing a Bira woman whom they left to die at the crossroads. I saw another woman shot by arrows. After the third group, came another group. The arrival of these four groups, in what seemed like waves, took less than one hour. There was a battle near the UPC camp which lasted for a few hours, though it was only the first group that carried out this battle. All the others entered the hospital grounds and started to kill people.<sup>154</sup>

The APC and Ngiti combatants destroyed the UPC camp in the first hours of the attack. But they continued the operation, switching to a systematic search for Hema, Bira and Gegere civilians. According to witnesses the Ngiti combatants called it "Operation Polio", implying a house-to-house search similar to a vaccination campaign. They continued the killing for at least ten days.

The Ngiti militia, wearing civilian clothes and fetishes, were armed mostly with traditional weapons such as machetes, spears, knives and axes. A smaller number carried firearms. A woman said:

I was in the market selling fruit and vegetables. We saw people coming from the hills, shouting. We didn't know what was happening. They came to the hospital and killed anyone they could find. They wanted to kill my mother. I shouted that my mother was not a Hema. They killed two women, Marie-Louise and Françoise, aged between twenty and twenty-five, both Bira, and two children, including my own eight-month-old girl. Seven Ngiti combatants slaughtered them in front of me. The other child was a one-year-old boy.<sup>155</sup>

A man who had been at the hospital said:

Through the window of one of the hospital rooms I saw them break through the fence. There were many of them and they broke into the building that I was in and started to kill people. They would cut their throats and take the hearts or bits from the throat. Sometimes they would cut the meat off the people's thighbones and put this into their bags. They asked people what group they were from as they were looking for Hema, Bira and Gegere. That first day I saw them kill sixteen people.<sup>156</sup>

Some assailants knew their intended victims and searched for them, calling out their names.

A witness said:

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<sup>153</sup> Human Rights Watch interview, Beni, February 2003.

<sup>154</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid.



When it began I was in the hospital and heard cries. People were running everywhere. I heard them call people's names. One of them came running into my room terrified and I hid the person under the sewing machine and covered her with blankets.<sup>157</sup>

One of those targeted related:

I hid in the ceiling of the intensive care ward with some others, but the attackers tried to get in. They used big stones to force the door and then started to kill. In the male surgery ward, they killed twelve people, all of them Hema patients. They just threw their bodies in the latrine.<sup>158</sup>

The assailants forced people of other ethnic groups and hospital staff to help them find the victims. Another targeted person said:

I hid in the ceiling of the Operating Room with Pastor Solomon Iserve, his family and others. We spent four days there coming down just to get water and then going back up. It was very hot and there was no food. There were fourteen of us there - some were staff, some were students, some were women. On Tuesday [September 10, 2002], the APC and Ngiti went to see the doctor and told him that if he didn't give up the Hema hiding there, they would kill him. The doctor pleaded with them but they insisted. He was forced to open the operating room where we were hiding. We had to climb down. They wrote down our names and the administrator handed over the list. The fourteen of us included Hema, Gegere, Lendu, and Alur. They released two women, one Alur and one Lendu. They kept the Hema and the Gegere. The soldiers said we should keep calm and they would give us food, but if we ran away, there would be problems for the doctor. They gave us lots of food but we couldn't eat much.

They came back a few hours later to get us. They tied us to each other with ropes around our wrists, except Pastor Solomon who had his arms tied behind his back and then was tied to the others. . . . They searched all the hospital and took out lots of people who had been hiding, making us all sit in the corridor. The APC and Ngiti combatants were guarding us and beating us. They made us put our hands on our heads. They said if we put our hands down, they would beat us. They searched every room. They beat us and asked us our ethnic groups. They said: "if you tell us the truth, it may save you. If you lie, you will die." We didn't know what to say. They asked me and I said Hema. They said: "You're telling the truth". The combatants said they would kill us. They took my shirt and watch. They hit me with flashlights and punched me and kicked me. I said nothing.

At about 10:00 p.m., they told us to line up. We walked with Ngiti combatants on one side and APC on the other, not knowing where we were going. Together there were more than seventy of us, including some women who had just given birth and patients on intravenous drips. . . . They made us go into a house in the nurses' compound. We spent one night there. It was very small and crowded. We just prayed. The soldiers and the Ngiti combatants were standing guard outside and coming in and checking. They beat us.

In the room where we were, a two-week-old baby died. His body was thrown into the latrine. His mother had no milk to feed him. People were crying, urinating and defecating in there.<sup>159</sup>

A member of the hospital staff related how they tried to appeal to the Ngiti commander. He said:

We went to Colonel Khandro to ask if we could see the people who had been taken from the hospital the night before. He allowed us to talk with them through a small window in the side of the building they were using as a prison. We managed to speak with Pastor Solomon who told us that there were about

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<sup>157</sup> Ibid.

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

seventy of them in the building and that many were tied. He said he was there with his family – his wife and young baby. We could see some people sitting and others standing. It was very crowded. He asked for water for everyone as they had had nothing to drink since they had been taken the night before. We returned to Colonel Khandro to ask if we could have permission to bring the people water. He refused and said it was none of our business. We felt completely defeated and made the decision that we should do everything possible to leave Nyakunde. There was no hope anymore.<sup>160</sup>

After days of negotiations the remaining hospital staff was eventually allowed to leave late on September 12. With an escort of eight APC soldiers and carrying a few belongings, a small amount of equipment, and medicines, a few hundred of the medical staff made a ten-day journey on foot southwards towards Oicha. They left behind a destroyed hospital, hundreds dead, and some of their friends and colleagues held prisoners. “As we walked out, the Ngiti combatants carefully looked over the whole group still searching for the enemy,” said one person who made the trek. “On the road we saw the body of a man whose throat had just been slit. It was a sad reminder of what could happen to us. We were all so quiet and sad.”<sup>161</sup>

The Ngiti combatants and the APC interrogated the remaining prisoners and released those who were not Hema, Bira, or Gegere. A few others managed to escape. The remaining prisoners were separated into groups according to their strength. A witness recounted:

In the morning at 6.40 a.m., they came and untied the ropes of the women as we had slept tied up. They separated the stronger women and took us away, about sixty of us. A similar number of about sixty men and weaker women, including the Pastor Solomon’s wife, stayed behind. They gave us loads to carry of the things they had looted. I was made to carry roofing. They said: “we’re going to take these to our village, Singo.” We carried them many kilometers uphill, beyond the river Talolo. On the hill, there was a plain and we saw a troop of fighters. They made us go there.

When we got to Singo [twelve miles away] I heard that an earlier group had already arrived there and been killed. We were the second group. They put us in a house like a prison. It was very crowded and suffocating. Children were crying. We couldn’t breathe or even sit down.

On Saturday [September 14, 2002] the third group of prisoners arrived. These were the men, including Pastor Solomon. He was exhausted from carrying ammunition and hadn’t eaten. He had collapsed along the way. The Ngiti said he was a politician and should be killed. Some of the others disagreed and said they should wait for Colonel Khandro to arrive before killing him. They went back to get the Pastor who had fallen and brought him back. I saw him. He was just wearing a pair of brown shorts. They carried him and leaned him against another man. Then they “tried” him. They accused him of calling Hema militia from Bunia to kill Lendu and of playing politics against the Ngiti. He denied talking with Hema militia. They hit him. He denied being involved in politics. Then they “tried” other people. Each of these trials lasted about ten minutes but the Pastor was the only one accused of being involved in politics. The others were just told that they were causing problems because they were Bira or Hema. Then they took them away to two other prisons.

The next morning, an Ngiti combatant announced that the pastor was dead. He said, “The pastor has died before his time.” Someone else told me that he had been killed because of his involvement in politics. His body was cut up and the pieces thrown into the latrine.

At about 5:00 p.m. on Sunday [September 15, 2002] Colonel Khandro arrived. He was angry because we were all still being held as prisoners. He said all the people in the prisons should be killed.<sup>162</sup> One of the

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<sup>160</sup> Ibid.

<sup>161</sup> Human Rights Watch Interview, Erengeti, February 2003.

<sup>162</sup> Other persons, speaking separately with Human Rights Watch researchers, reported the same information. Human Rights Watch interviews, Bunia, February 2003.

prisoners was a Rwandan Hutu girl, Kasima, aged about eighteen. Khandro was very cross. He said: "Why are you still holding the hostages?" He whipped the guards, and then killed Kasima himself with a double-edged knife. I saw him kill her. I ran away.

At about 6 p.m. that evening, Khandro gave the order to kill those remaining in the prison. The people in the second and third groups were taken into the bush and killed there. I think there were about sixty people in each group. I saw as the Ngiti combatants came back with their knives and spears covered in blood and with the clothes of the prisoners. They killed them quickly. I was hiding and was very scared.<sup>163</sup>

By the second day, the APC and Ngiti combatants had set up roadblocks to ensure that no Hema, Gegere, or Bira escaped from Nyakunde. Witnesses said:

We were stopped by the APC and Ngiti just outside Nyakunde. They asked us our ethnic group and asked for our identity cards. They separated people into groups: those from Kivu on one side and the Hema and Bira on the other. The Bira pretended they were from other groups. Some Bira said they didn't have a card. The APC told us that if we were hiding Bira or Hema, they would kill us. The APC were manning the roadblocks while the Ngiti were looting. They said if they found any Hema, they would kill them.<sup>164</sup>

During these days of killing APC commander Hilaire from the 13<sup>th</sup> battalion was sent from Komanda to assess the situation at Nyakunde. He told Human Rights Watch researchers that he saw no civilian bodies during his visit but only the bodies of UPC combatants. He did not stay long and escorted the medical staff out of Nyakunde, leaving behind many other civilians who could have been saved.<sup>165</sup>

Both commander Hilaire and commander Faustin apparently reported the events to the APC chief of staff. RCD-ML President Nyamwisi himself admitted knowing of the Nyakunde massacre. He told Human Rights Watch researchers, "I know about the events but we didn't give orders for this to happen," he said.<sup>166</sup> The APC troops "were outnumbered and taken hostage by the Ngiti," he continued and added that he had "no control over them at the time of the events in Nyakunde."<sup>167</sup> According to witnesses, some APC troops did on occasion try to stop the killings, but were unable to restrain the Ngiti combatants.

Assuming the RCD-ML disapproved of the Nyakunde massacre, it is remarkable that it has launched no investigation into the conduct of APC troops and their allies, far less made any arrests for participation in the massacre. Commander Faustin is currently in jail in Beni but he is charged with letting soldiers under his command desert the APC, not with any actions he might have committed in Nyakunde.<sup>168</sup> Colonel Khandro was reportedly killed just days after the massacre by an individual in his own ranks. One of his deputies, Commander Germain who had also participated in the massacre, took control and is currently a key commander in the newly formed FRPI political armed group with links to the RCD-ML and the DRC government.<sup>169</sup> He was in charge of significant elements of the Ngiti and Lendu fighters who fought in Bunia in May 2003; a battle that resulted in the deaths of more than 400 civilians.

MONUC, with its severely limited resources and mandate was in no position to avert this massacre or to halt it once it had begun. In July a high-level delegation from the CME hospital warned MONUC that the risk of violence was high and that the hospital was threatened. The MONUC team sent a brief report back to

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<sup>163</sup> Human Rights Watch Interview, Bunia, February 2003.

<sup>164</sup> Human Rights Watch Interview, Oicha, February 2003.

<sup>165</sup> Human Rights Watch interview, Commander Hilaire, Beni, February 12, 2003. Witness refused to give his full name.

<sup>166</sup> Human Rights Watch interview, President Mbusa Nyamwisi, Beni, February 11, 2003

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Human Rights Watch interviews, Beni and Kampala, February 2003.

headquarters in Kinshasa, but did nothing more. At the hospital, the staff despaired, with one saying, “The Congolese are dying but the UN says nothing.”<sup>170</sup>

Information on the kind and extent of the massacre was available at the beginning of the second day when expatriate staff were evacuated. A subsequent e-mail message courageously sent on September 7 from Nyakunde entitled “Nyakunde - Fire and Blood”<sup>171</sup> also alerted many to the scale and ethnic nature of the killings. The e-mail was addressed to a number of church organizations who reportedly passed it on to others, including the MONUC delegation in Bunia, but the UN force did not come to assist the victims.<sup>172</sup>

The MONUC Bunia team reported back to Kinshasa headquarters on September 19, two weeks after the massacre, that more than 150 people had been killed in Nyakunde,<sup>173</sup> an astonishing underestimate of the death toll. While it may have been difficult at first to confirm information about the massacre, MONUC has not to our knowledge conducted any later investigations into this massacre.

#### *Lendu and Ngiti Summary Executions Tolerated by RCD-ML Authorities*

Lendu and Ngiti militia killed individuals of opposing ethnic groups just as they attacked large communities of such people. When RCD-ML authorities were in control of Mongbwalu, militia abused and sometimes killed Hema for no reason except their ethnic affiliation. Many Hema feared beatings or worse and left town. One witness related the killing of a newborn boy taken from the maternity ward of the hospital because both his mother and father were Hema. Had his father been of another ethnic group, the baby would not have been killed because ethnic affiliation is passed through the father’s line according to the witness.<sup>174</sup>

A witness to the killing of a Hema woman in another incident said:

One day in October they arrested a woman who was accused of being a witch. But she was Hema and that was the real reason. There were about ten Lendu combatants with machetes and knives. They took her from her house, stripped her and then cut her all over – they cut off her arms and then cut her genitals. Then they killed her near the central market place and burned her body. About fifteen of us witnessed this. The authorities eventually intervened and the APC Commander Papy stopped it. They tried to get the Lendu notables to calm the situation down but they didn’t arrest anyone.<sup>175</sup>

In this case, the soldiers attached to the RCD-ML were ready to prevent further such crimes—at least in the immediate future—but were also ready to tolerate impunity for the crime just committed.

In Mongbwalu APC Commander Kongolo publicly tried one of his soldiers, Pierre Ukila Wadhum, accused of killing a popular Lendu combatant. After considerable threats, Wadhum confessed to the crime, but his guilt was not otherwise established. Kongolo proposed arresting Wadhum and sending him to Beni, but the Lendu combatants refused and demanded that he be handed over to them to be killed, Kongolo gave in to their demand. A witness to the October 2, 2002 mob killing said:

Kongolo failed in his negotiations, as did others, and they finally said to the Lendu, “If this is what you have judged, then take him.” They took him to the central area of Mongbwalu and called everyone to come and see. Pierre [Wadhum] was tied up and completely nude. They made him sit on the ground and then a Lendu fighter sat on a chair behind him, holding the man’s head between his legs. He cut the soldier’s throat with quick cut of his knife. Another Lendu fighter came with a big machete and cut open his chest and took out his heart. They gave the heart to their Chief – Maitre Kiza – who took the heart and washed it in a bowl of water they had prepared. He then placed the heart on the fire. He put a little

<sup>170</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>171</sup> CME Hospital staff member, “Nyakunde en feu et en sang”, September 7, 2003.

<sup>172</sup> Human Rights Watch interview, Beni February 2003; electronic correspondence, June 2003.

<sup>173</sup> Internal MONUC correspondence, September and October 2002.

<sup>174</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>175</sup> Ibid.

bit of salt and oil on the heart and then roasted it. They had two large bowls of cassava ready near the fire. As the heart cooked, the other Lendu combatants took the remainder of the body and placed it on hot wood and then placed other hot pieces of wood on the top so the body was roasting as well. The Chief and his entourage then ate the heart with the cassava while the rest of the Lendu fighters ate the body. They even offered the crowd some of the meat. The APC soldiers at first watched but then went away as they saw their comrade being eaten. Whatever wasn't eaten was then burned. This whole ceremony took over two hours.

There were many of us who witnessed this. They told us not to take any pictures and if anyone did there would be trouble.<sup>176</sup>

Two days later Maitre Kiza and Kung Fu, another Lendu fighter, were sent to Beni where they were reportedly judged by military officials. They returned to Mongbwalu a few days later. They called another meeting at the same place and told the population there would be no more such executions. Maitre Kiza became a key figure in the Lendu political armed group, the FNI, who have links with the RCD-ML.<sup>177</sup> He was reportedly killed in fighting in Ituri in early June 2003.

As with the Nyakunde case, RCD-ML authorities appeared willing to let serious human rights abuses, mob justice and cannibalism go uninvestigated and unpunished, but sought to deter further cases of such crimes.

#### **Abuses by the MLC and RCD-N**

The MLC had been involved in Ituri during the short-lived agreement of the Front for the Liberation of Congo (FLC), a platform of the MLC, RCD-N and the RCD-ML, sponsored by Uganda under the leadership of Jean Pierre Bemba. But Nyamwisi refused to accept Bemba's leadership in Ituri and his forces pushed Bemba and the MLC troops out of Beni and Bunia. In the last months of 2002, the MLC tried to fight its way back into Ituri with the support of Roger Lumbala's RCD-N, claiming that Nyamwisi had violated the Lusaka Accord. In doing so, their combatants committed violations of international humanitarian law including the deliberate killing of civilians, numerous cases of rape, looting and some acts of cannibalism. Some of these violations may have been directed at the Nande ethnic group, targeted for their connection with Nyamwisi, himself a Nande.

#### ***Summary Executions and Looting at Mambasa***

Mambasa, a district in the western part of Ituri, was relatively untouched in the early years of the conflict between the Hema and the Lendu. Although officially part of the former territory of Ituri, it remained in the hands of the RCD-ML after the fall of Bunia to the UPC in August 2002. As the killings continued in eastern areas of Ituri, many civilians fled west towards Mambasa and Komanda. By the beginning of November, a reported 5,200 displaced people from other parts of Ituri were being given assistance in Mambasa.<sup>178</sup>

In early October, the MLC and RCD-N launched their attacks near the town of Mambasa and then attempted to move further south towards the RCD-ML capital of Beni in the "effacer le tableau" [Wipe the Slate] campaign which would eventually end with the ceasefire signed in Gbadolite on December 31, 2002. In the area of Mongbwalu, UPC troops attacked jointly with the MLC forces, as described above, and the UPC was rumored to be seeking an alliance with the MLC.<sup>179</sup>

When the MLC and RCD-N troops arrived in Mambasa on October 12, 2002, most residents fled to the forest. The troops sought out residents in the bush, trying to identify at least some of them by ethnic group. A witness said:

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<sup>176</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>177</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>178</sup> Human Rights Watch interview Beni, February 2003.

<sup>179</sup> Ibid.

We had fled there but they found us. They asked us our names. If they sounded like Nande names, they took people away. I was captured along with my older brother. They tied our arms behind our backs with rope and took us to the Mambasa cemetery. . . .They made us lie on the ground. They said: "You're Nande and we're against Nande. Therefore you should be eliminated." There were twenty-five soldiers who took us there. They were well-armed with guns. They said they were going to kill us. We were lucky because after about ten minutes, some APC soldiers appeared, and the MLC soldiers fled. We ran away, still with our arms tied.<sup>180</sup>

Bemba's MLC and RCD-N troops also killed four people because of their supposed political loyalties. One witness said:

Days after they came into Mambasa they took my brother-in-law from the house. They had APC uniforms and claimed to be his friends, but they were really the Effacer. They asked him and a group of eight others how they viewed the Effacer. The people responded that they were very bad and they had looted everything from the population. The effaceurs then took four of the nine people and killed them, including the chef de quartier of central Mambasa. They buried them behind the St Anouarite Church in the center of town. The others were allowed to go.<sup>181</sup>

Another witness who saw the corpses said that their arms and ears had been cut off. Of the four victims, he had known two, Daniel Kahindo and Francois.<sup>182</sup>

The troops reportedly shot Gerard of Mandima because he refused to tell them where to find the driver of his truck, which they wanted to steal.<sup>183</sup>

Local Red Cross officials report that in the district of Mambasa, including the town and surrounding areas of Teturi, Lwemba, and Byakato, some 185 victims of violence were buried from the violence between October and December 2002.<sup>184</sup> It is unclear how many of those were killed by MLC combatants and how many died in other ways.

MLC and RCD-N soldiers, many of them drunk or drugged, systematically looted the town. Some were bare-chested, others had uniforms or headbands with US. flags. One soldier told the residents of a house he had entered, "Don't resist because for four days we can do whatever we want. That is the agreement."<sup>185</sup> They forced residents to transport the loot to their camp.<sup>186</sup> Colonel Freddy Ngalimo who commanded the operation for the MLC explained the looting to community leaders as normal. "Even the Palestinians do it," he reportedly said.<sup>187</sup> To quiet community protest, the troops made a pretence of returning the loot, but in fact gave back only a few of the less valuable items.

The Kinshasa government and its ally, the RCD-ML, were outraged at Bemba's attempts to muscle into new territory and may have prompted publicity about abuses by MLC forces. Bemba reacted to the substantial national and international criticism by having MLC Lieutenant-Colonel Freddy Ngalimo and twenty-six others tried for "extortion, rape, assassination, looting and disobeying orders."<sup>188</sup> Under Common Article 3 to the Geneva Conventions, the MLC had legal authority to prosecute and punish its own soldiers by a regularly constituted court, but the trials failed to meet internationally recognized standards for fairness. The judges were neither independent nor impartial and the prosecution had done no real investigation nor offered serious examination of

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<sup>180</sup> Human Rights Watch interview in Mangina, February 2003.

<sup>181</sup> Ibid.

<sup>182</sup> Ibid.

<sup>183</sup> Ibid.

<sup>184</sup> Human Rights Watch interview, Beni, February 2003.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> UN IRIN, Interview with Jean-Pierre Bemba by IRIN, February 6, 2003.

the charges. The trial, held in February 2003, appeared to have been a public relations exercise with the aim of shielding Bemba and his main officers from more serious prosecutions. It resulted in a number of convictions, with the lower ranking officers sentenced to harsher punishments than their commanders. The most serious sentence of life imprisonment went to Corporal Katembo Kombi and Lt. Jose Zima for murder. Colonel Freddy Ngalimo, who had been in charge of the military operation with direct control over events, was found guilty only of permitting insubordination by troops under his control, and was sentenced to three years imprisonment. Sixteen combatants received sentences ranging from six months to three years for crimes of desertion, disobedience, or rape, and seven others received only "internal sanctions" for indiscipline. For actions that might have amounted to crimes against humanity, these trials made a mockery of justice.

### **Assassination of Governor Joseph Enecko**

To gain wider acceptance for their movement, the UPC appointed an Alur, Joseph Enecko, as Governor of Ituri in August 2002. Governor Enecko had been a well-respected Alur community leader and surprised many in his own constituency when he accepted the position. Some even viewed him as a traitor for having joined forces with the UPC. From the beginning things did not go according to plan. A high level delegation sent to Aru to make the official announcement of his nomination were surprised—some were reportedly even shocked—when the newly appointed Governor stated publicly he would accept the position, but that he should not be considered as member of the UPC.<sup>189</sup>

The governor delayed his departure to Bunia in order to resolve some matters in Aru and Mahagi, an action which may have increased UPC concerns about his attitude. He talked openly of his mission for peace and met with various groups in the north of Ituri, including Roger Lumbala of the RCD-N, Lendu leaders in Kpandruma, and some local Hema leaders in Fataki. He visited the Lendu before the Hema prompting rumors that he was pro-Lendu. The UPC sent a delegation headed by Kitembo Bahemuka, the Chief of Staff of the UPC army, to oblige Governor Enecko to come to Bunia.

Before leaving for Bunia Governor Enecko set out on November 21 for Mahagi to install a new territorial administrator in his post. Just before he left, the UPC commander in Aru changed the governor's bodyguards and driver. En route, near Simbi, the local people stopped the governor's car and informed him that APC troops and Lendu militia had been fighting the UPC on the road ahead earlier in the day. Night was falling but the Governor was determined to go on. A local source reported:

Around five miles from Mahagi the delegation saw three bodies on the road. The driver stopped, saying they should go back, but the Governor insisted they should go on. Then a person stepped out into the road wearing a military jacket. The bodyguards tensed and wanted to shoot, but the Governor restrained them. They shouted that they were with the Governor. The soldier responded, "Which governor – is it the one killing us here?" and then gave the order to shoot. Within minutes all the passengers were killed except two bodyguards who were in the back of the vehicle and managed to escape. Governor Enecko, his driver, his secretary, the Chief of the Public Office and five other guards were killed.<sup>190</sup>

People from the nearby village heard the shooting and went to investigate the following morning. "I walked up the road to see what had happened. I saw all the bodies and was really scared," said a witness. "I didn't know at that time that it was the governor. Then the UPC arrived and started to destroy the houses in my village. I don't know why. They made people come with them to the scene and bury four UPC soldiers but not the ones near the car. They were very nervous and made them do it quickly as they wanted to leave straight away."<sup>191</sup>

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<sup>189</sup> Human Rights Watch interview, Arua, February 2003.

<sup>190</sup> Ibid.

<sup>191</sup> Human Rights Watch interview, Nebbi, February 2003.

The following day, before any more formal investigation had been done, UPC authorities announced that the two survivors had identified APC soldiers as the killers. At the time of the Human Rights Watch mission to Ituri, the two survivors were under UPC surveillance motivated, it was said, by a concern for their lives.<sup>192</sup>

Witnesses and local residents who lived near the ambush site claim that UPC soldiers attacked the Governor's car. One said:

At around 6:00 p.m. there were a lot of shots in the Nzii area not far away where the APC were fighting with the UPC. I fled about half a mile away along with others. The shooting stopped at about 6:30 and I returned to my house. Near my place I saw APC soldiers on the road walking away from the place where the fighting had been. They heard a car approaching and so they hid on the edge of the road. After it passed some of them came out and shouted "APC, APC let's go" and then many of them came out and carried on walking down the road in the direction opposite to that taken by the car. . . . A few moments later I heard shots again in the direction the car had taken which lasted for about 15 minutes. I stayed alone in my house that night and saw no more soldiers pass that evening.<sup>193</sup>

A few days later UPC soldiers raided the Governor's house in Bunia and looted everything inside.

At the time of writing, no official investigation has been carried out and no one has been charged with the murder of the most senior local authority in Bunia.

#### **Blocking Humanitarian Aid and Targeting Humanitarian Workers**

Armed groups in Ituri began intimidating humanitarian workers and blocking the delivery of assistance to "rival" areas in late 1999. All parties to the conflict have been guilty of this violation of international humanitarian law, the incidence of which increased and became more serious over time. In the last year alone, there have been more than thirty cases where humanitarian workers have been arrested, threatened, beaten, or expelled from the area. UPC authorities have been responsible for the majority of these recent cases, often charging the agencies and their workers of being complicit with the Lendu. Such was the case when UPC soldiers imprisoned two aid workers in November 2002. In other cases, UPC soldiers have arrested aid workers who have refused to provide them with food or medicines.<sup>194</sup> In a statement on September 1, 2002 UPC Foreign Minister Jean Baptiste Dhetchuvi deplored the "negative attitude" of humanitarian agencies and accused them of having helped the Lendu cut the water pipes that provided clean water to Bunia, ignoring the fact that those agencies had been the ones to install the pipes.<sup>195</sup>

In early 2003 UPC authorities expelled the Belgian priest, Mark Deneckere of the White Fathers of Africa, for having helped a group of displaced Lendu, the same group whose story drew the wrath of the authorities on journalist Khan in the incident described above. Father Deneckere had worked in Ituri for over 40 years. He said:

In August the UPC burned many houses in Bunia and that night the Lendu came to us with what little they had, asking for assistance. They took refuge in an empty house nearby. I was later accused of taking these people hostage – all 120 of them. How could I possibly have done that? Of course I helped them. How could I not? They were people in need and as a priest I could not ignore that.

Then a journalist did a story on the situation in Bunia that really angered the UPC. On February 9 the UPC took me into the house where the Lendu had taken refuge and claimed that they did not know these people were there. This was of course impossible as they had visited many times and often the soldiers would look over the wall. I was told I had to come for an interrogation. On February 11, 2003 I was officially summoned to their office and they asked me many questions. They accused me of helping the

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<sup>192</sup> Ibid.

<sup>193</sup> Ibid.

<sup>194</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>195</sup> Jean Baptiste Dhetchuvi, *Ituri: What Future?*, September 1, 2002.



Lendu, of giving them weapons, and wanted to know why I had opened my doors to them. It was absurd.<sup>196</sup>

On February 14, 2003 the UPC gave Father Deneckere 48 hours to leave Ituri. The expulsion order gives the reason as “secretly hosting displaced people with the intention of tarnishing the UPC movement and of being in contact with negative forces against peace and reconciliation.”<sup>197</sup>

UPC soldiers threatened and actually attacked priests and aid workers in other areas as well. On January 15, 2003, the UPC attacked the parish in Nioka where a feeding center for malnourished children had been set up with the assistance of an international nongovernmental organization. They arrested and beat the priests, accusing them of helping the Lendu. They looted the parish and then destroyed the warehouse where the food for the feeding center was kept. A witness said:

There were four UPC soldiers who came with a Hema civilian called Jabu. They accused us of being with the APC and having weapons. They said they were could do anything they wanted to us. They beat me for nearly thirty minutes. They accused me of being with the Lendu and said they would kill me like they were killing the Lendu. They took some of the Lendu from the village, men named Njangu and Kpatchuma, and they executed them behind the prison. I had to sleep outside all night long.

They looted the parish, shot into the ceiling and tied up Father Mario, one of the white priests. They accused him of helping the Lendu because he was working at the feeding center for malnourished children. They took him to the prison in Nioka and asked him for money. They beat him. They made another priest carry water for them all day long. He was kept for two days and hit with a stick. I managed to escape to the forest where I stayed for four days.

All we were doing was helping starving children - Lendu and others as well. Now all that is finished which is exactly what they wanted.<sup>198</sup>

The increase of attacks by armed groups has caused humanitarian agencies to reduce their activities in the area, despite the desperate need of tens of thousands of people for assistance. According to a relief worker, the results have been catastrophic, “Thousands of people will have died because of political games.”<sup>199</sup>

UPC authorities have also intimidated and in one case expelled UN personnel. On November 23, 2002, UPC President Lubanga declared persona non grata a UN officer from the Office for the Coordination of Humanitarian Affairs (OCHA) who had protested against the arrest and intimidation of humanitarian workers. The official reasons for his expulsion were “arrogance, malicious intervention, spreading of false rumors and discourteous language to UPC officials,” charges which Lubanga declared to be “very serious for the security of the territory controlled by the UPC.”<sup>200</sup> Another OCHA representative and a MONUC staff member had previously left Bunia after intimidation by Hema leaders.

### ***The Murders of ICRC Staff***

The most serious attack on humanitarian workers in Ituri was the murder of six staff members (four Congolese and two expatriate) of the International Committee for the Red Cross (ICRC) on April 26, 2001.<sup>201</sup> Local police began investigating the killings under the authority of the Congolese Liberation Front (FLC) which controlled

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<sup>196</sup> Human Rights Watch interview, Father Mark Deneckere, Kampala, February 20, 2003.

<sup>197</sup> Process Verbal de Refoulement against Marc Deneckere, signed by Saba Aimable, UPC Judicial Officer, February 14, 2003.

<sup>198</sup> Human Rights Watch interview, Paidha, February 2003.

<sup>199</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>200</sup> Process Verbal de Refoulement, signed by Saba Musanganya, UPC General Administrator of Security, November 23, 2002.

<sup>201</sup> They were Aduwe Boboli, Julio Delgado, Rita Fox-Stuecki, Jean Molokabonge, Véronique Saro and Unen Ufoirworth.

Ituri briefly in 2001. Since the collapse of the FLC, apparently no official has pursued the investigation despite repeated appeals for action from the international humanitarian community.

Human Rights Watch had access to information gathered by the police and was able to independently verify some of it. The evidence suggests a conspiracy to kill international aid workers carried out by local Hema community leaders, some of whom were members of the UPC, and Ugandan soldiers.

On April 26, 2001, a team from the ICRC was attacked in the early afternoon shortly after leaving Fataki, in the Djugu territory of Ituri, and heading towards Bunia. All six ICRC staff members were killed and the two cars burned. The bodies were discovered shortly afterwards by others on the road who raised the alarm, and a team of Ugandan military and local police came from the nearby town of Djugu. A witness said:

Behind the second vehicle there were five bodies in a row. The sixth body was a little further away. It looked like the bodies may have been arranged after they died. They all had cuts and spear marks on them and one had a spear mark in the back of his head. Some of the bodies had drag marks and it looked like they had been moved afterwards. The bodies were collected and taken to Djugu and shortly afterwards to Bunia by the military under the escort of Ugandan army Sector Commander Colonel Muzoora.<sup>202</sup>

According to witnesses, the Ugandan army Major David, usually posted at Fataki, had been in Fataki the morning of the murders and arrived in Djugu at about 5:30 p.m. having apparently traveled a longer road, perhaps to avoid being near the place of attack. He was accompanied by three well-known Hema extremists named Loringa, Assau and Tharcisse. That night Major David, Ugandan soldiers, and the three Hema civilians went to the crime scene, but refused to allow local police to accompany them.<sup>203</sup>

Two days later an official inquiry team including police investigators and some ministers arrived from Bunia. Thomas Lubanga was among them, although his job responsibilities at the time as Minister of Youth, Sport and Leisure did not include criminal investigations. There were also a large number of Ugandan soldiers attached to the team despite reservations concerning their presence expressed by the Minister of Justice.<sup>204</sup>

A witness told the team that he had seen five men leaving the scene of the crime, three in uniform and carrying backpacks and two in civilian dress. This witness changed his statement a few days later and said the men were not in uniform.<sup>205</sup> Despite requests from the Assistant Administrator of the Territory, the Ugandan army did not provide protection to this witness and he later disappeared.

Several days after the crime, the Ugandan army allegedly conducted a "clean-up" exercise in which they encircled the area called Likopi near the crime scene and killed some twenty-five people, including a judge named Jicho who lived three miles from where the ICRC murders had taken place.<sup>206</sup> Civilian police were afraid to investigate these latest killings.

Soon after the Ugandan army arrested a Lendu man named Dongo Tchudja, whom they accused of committing the murders along with other Lendu bandits. According to the Ugandan army, Mr Dongo confessed to the murders. The accused, however, repeatedly changed his statement and got many details wrong in his "confession," such as the date, color of the cars, and number of people he killed.<sup>207</sup> The Ugandan army guarded the "perpetrator" at a container in their military camp at the Bunia airport and refused to hand him over to the civilian judicial authorities. A MONUC observer who spoke with Dongo said that he appeared "unbalanced".<sup>208</sup>

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<sup>202</sup> Human Rights Watch interview, Arua, February 2003.

<sup>203</sup> Bunia Police files, 2001.

<sup>204</sup> Human Rights Watch interview, Arua, February 2003.

<sup>205</sup> Bunia Police files, 2001.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Human Rights Watch interview, Bunia, 2001.

The suspect continued to be held without charge and in January 2002 the magistrate sent a letter to the new prosecutor complaining about the continued interrogation of Dongo.<sup>209</sup> According to local sources, Ugandan soldiers then took Dongo to Kampala without asking the consent of local judicial authorities or even informing them of it. His fate is unknown.

The Ugandans and the FLC announced that the killer of the ICRC team had been apprehended before the official enquiry was completed. Local police tried to continue their investigation and summoned men from Fataki for questioning, including those named Mohindo, Tharcisse, Assau, Adidace, and Loringa. When those summoned failed to appear, the police found no way to compel them to come. At one point, they asked the vice-governor for backing and he refused, saying, "It is not my affair".<sup>210</sup>

Lubanga sought access to the local police files, as did senior officers of the Ugandan army. Eventually the Ugandan army sent an officer to take the files from the prosecutor, saying that a plane was due to arrive from Kampala to take the information to President Museveni. The Ugandan officer was given some of the documents, but not the whole file.<sup>211</sup>

Those familiar with Hema politics believe that a number of Hema community leaders may have held meetings several months before to plan the crime. As one insider explained to Human Rights Watch researchers, "I believe the Hema leaders planned to kill the people from ICRC. I heard people talking about it before it happened and they told me they were going to carry out an ambush. . . .They didn't want the ICRC to help the Lendu and they were very much against them."<sup>212</sup>

According to diplomatic sources, the Government of Uganda set up a military investigation into the ICRC killings in mid-2002, but no results have been published and, to our knowledge, no arrests have been made.

#### **Inhumane Acts – Cannibalism and Deliberate Mutilations of Corpses**

Members of the most important armed groups in Ituri have carried out inhumane acts, such as cannibalism and deliberate mutilation of corpses. Following a MONUC press release charging that Bemba's MLC forces had committed cannibalism, the international press focused on these acts, repulsive by their nature. But they affected a relatively small number of people. Journalists accorded these crimes far more attention than the more usual acts of killing that had been devastating the region on a far larger scale. The Human Rights Watch mission to Ituri followed in the wake of this publicity and found that acts of cannibalism were not unique to the MLC forces in Mambasa, but had been carried out also by other armed groups in the conflict since 1999 including the Ngiti and Lendu militias and Hema forces of the UPC. Victims included people of several ethnic groups.

Perpetrators in these cases may have consumed human flesh as part of a larger political and ritual context, as has happened elsewhere in the DRC and in the world.<sup>213</sup> Cannibalism is sometimes linked to the belief that those who consume the flesh of a person acquire his strength. The appearance of this practice at this time in Ituri may indicate that peoples subjected to constant threat over a period of years have become cannibals as a way of strengthening themselves and assuring their survival. It may also mean that perpetrators have found that fear of cannibalism terrorizes victims more effectively into compliance with their orders than does the simple fear of death, so frequently faced in daily life.

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<sup>209</sup> Letter from Jerome Lutimba Hussein to Monsieur le Procureur on January 5, 2002. Ref No 001/JLU/PIR/2002.

<sup>210</sup> Bunia Police files, 2001.

<sup>211</sup> Human Rights watch interview, Kampala and Arua, February 2003.

<sup>212</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>213</sup> There are also reports of cannibalism by the Mai Mai in the Kivus in DRC, see IRIN-CEA Weekly Round-up 161, February 8 – 14, 2003. Eating the flesh or internal organs of the enemy has been reported in a number of armed conflicts in recent years. See, e.g. "You'll Have to Learn Not to Cry": *Child Combatants in Colombia*, Human Rights Watch, forthcoming July 2003; *Sowing Terror: Atrocities against Civilians in Sierra Leone*, Human Rights Watch, July 1998, p. 12; *Leave None to Tell the Story: Genocide in Rwanda*, Human Rights Watch: New York, March 1999, p. 255; *Vigilantes in the Philippines: A Threat to Democratic Rule*, Lawyers Committee for Human Rights: New York, 1988, p. 44.

In the last three months of 2002, MLC and RCD-N troops raped, killed, and cannibalized Pygmies, hunters and gatherers who live in the forest. They sought thus to terrorize the Pygmies into helping them as guides through the dense forest so that they could avoid travel on the main roads where they would be subject to attack. Some of the combatants who engaged in this practice may have hoped to acquire strength from their victims.

Human Rights Watch researchers gathered information about the case of a Pygmy named Amuzati. A witness said:

About twenty miles from Mambasa, the MLC soldiers attacked a Pygmy camp. Amuzati, who was hunting in the forest, heard shooting. As he wasn't far from his camp he returned to see what was happening. About half a mile away, he heard shouts and crying and then there was silence. He came closer and saw several soldiers. He saw the corpses of his family, including his nephew, four or five years old, with his stomach cut open. They were cutting the flesh off the victims. Then he watched as they ate his mother, elder brother, and two nephews. He was filled with emotion and afraid that if he shouted, they would catch him too, so he crept away.<sup>214</sup>

Some Lendu militia carried out deliberate mutilations and acts of cannibalism against their victims, mainly targeting the Hema. This often involved a ritual in which the flesh of the victim was distributed to Lendu combatants. A witness taken by Lendu militias on the road near Makofi in November 2002 said:

I was in a truck with five other people en route to Mongbwalu. Near Makofi we ran out of fuel. We started to walk when we were attacked by the Lendu. There were many of them with guns and machetes. They surrounded us and captured us. They started to interrogate the driver, Independent Dedjo and they hit him. They also beat me. They asked us what tribe we were from and we said Alur. They asked us for our identity cards. They did not believe the driver and thought he was Hema. A man who knew me and some of the others vouched for us and said we were Alur, but he did not know the driver. They decided to conduct a test. They rolled two eggs on the ground. If the eggs rolled back then the man was not a Hema, if they did not, then he was. The eggs did not roll back.

They told Dedjo to run for his life. As he ran they shot at him with arrows. He fell and they cut him with their machetes. They killed him. Then they lit a fire and grilled his body for hours. Six of the Lendu fighters ate the meat. The rest of us saw them do this. We were held for four days and they threatened to do the same to us. Commander Katumba was in charge of the fighters and organized all this. I think he is now dead. Eventually we paid them with the goods from the truck and they let us go.<sup>215</sup>

Some Hema combatants of the UPC have carried out similar acts of deliberate mutilation of bodies and cannibalism. A witness from Mongbwalu explained what he saw the Hema militia do:

The Hema didn't have any pity for people. They slashed them with machetes. They cut people's ears off and made them eat them, then they killed them. I saw this happen in Pluto. For example, they caught a Lendu combatant. They cut off his ear and part of his buttock and made him eat them. They killed him with machetes.<sup>216</sup>

A witness from Boga area, south of Bunia, said:

In September 2002, the Hema intercepted some Ngiti to the south of Kyabwoke in the Boga area. A young man, the son of Obadhia, came to me and bragged that he had killed an Ngiti woman. He had cut off her genitals and had put the clitoris on his forehead like a trophy. He wanted to show how strong he was.

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<sup>214</sup> Human Rights watch interview, Program d'Assistance aux Pygmées (PAP), Beni, February 9, 2003.

<sup>215</sup> Human Rights Watch interview, Arua, February 2003.

<sup>216</sup> Human Rights Watch interview, Oicha, February 2003.

In October 2002, the Hema again attacked the Ngiti in Zungulouka. When they returned from the attack they brought with them forty ears and one hand that they had cut off their victims. They carried them in a stripped plastic bag like the ones that hold shopping. They called us over to look at them and I saw it myself. They were singing victory songs. Commander Ateenyi Kagwa directed the operation. They said they had killed many people and they looted as well. They came back with more than twenty goats. The killing must have been horrible; even today you can still see skeletons in that place where people were slaughtered.<sup>217</sup>

### Sexual Violence

Combatants of all armed groups have committed rape and other forms of sexual violence in Ituri.<sup>218</sup> They have often raped women and girls as part of a more general attack in which these forces killed and injured civilians and pillaged and destroyed property. This was done to terrorize communities or punish them for real or supposed aid to opposing forces. In other cases, women and girls were raped simply due to their ethnicity. In some cases, victims were forced to leave with the rapists and have not been seen since. Some may have been killed and others may be being held by their abductors for continuing sexual and other services. Some rapists aggravated their crimes by other acts of extraordinary violence such as puncturing the vagina with spears or cutting off parts of the body. Armed combatants from militia groups and regular soldiers responsible for acts of sexual violence commit war crimes. Where these crimes are widespread or systematic, they could amount to crimes against humanity.

In the DRC a girl or woman who has been raped has been personally dishonored and, through no fault of her own, has brought shame to her household. An unmarried woman who has been raped will have trouble finding a husband if the crime becomes known. A married woman could be rejected by her husband or his family and suffer daily humiliation, if not outright expulsion from the household. Many victims are afraid to talk about the crimes, but groups working with women describe the situation as desperate, saying that rape is widespread even if rarely talked about.<sup>219</sup> Human Rights Watch researchers confirmed this conclusion during the course of their field work.

During attacks on Mambasa in October and November 2002, numerous MLC and RCD-N soldiers raped women. Witnesses describe one case:

In Mambasa in November 2002, a young girl, aged 14, was raped by four soldiers of the MLC. She was a virgin. They pinned her to the bed. They forced her brother to watch and said that if he left, they would kill her. . . . After they raped her, she cried. They slapped her on her face and leg and told her to stop crying. They said: "We can do what we want as long as we don't kill people." She bled for three days and was sick for two months afterwards.<sup>220</sup>

The aunt of one victim recounted another instance of rape:

One day in early November we were on the road near Mambasa when we ran into three soldiers who seemed to be MLC. Some had camouflage uniforms and others just had green ones; some of them had green berets. They took all our things from us including our bicycle and goats and then they took our niece who was only fifteen years old and raped her in front of us. They spoke to us in Lingala and they took her away with them. We have not seen her since. Her name was Marie Anzoyo and she is Logo. I know other girls were taken as well including a girl called Therese and another called Vero.<sup>221</sup>

A witness described another case:

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<sup>217</sup> Human Rights Watch interview, Kampala, February 2003.

<sup>218</sup> Human Rights Watch researchers and their Congolese colleagues documented a similar pattern in North and South Kivu provinces of eastern DRC in 2002. Human Rights Watch, *The War Within the War: Sexual Violence Against Women and Girls in Eastern Congo*, June 2002.

<sup>219</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>220</sup> Human Rights Watch interview, Beni, February 2003.

<sup>221</sup> Human Rights Watch interview, Mangina, February 2003.

In October 2002, two miles from Mambasa, the daughter of a man named Ndalo was raped and then disappeared. She was about twelve. Several soldiers raped her in the bush, and then they took her away. It was at night. The father was present. We never saw the girl again.

The victim in yet another case said:

I was raped one night in December, at about 11 pm, in our house, by five Bemba [MLC] soldiers. My mother-in-law was also raped. They came while we were sleeping. They were wearing military uniforms. All five of them did it. My father-in-law was made to hold my one-year-old child and was forced to watch. They also beat him with ropes. They said they wanted to kill all Nande and take Mambasa. I managed to get out through the window. My father-in-law helped me climb out. He fled; I don't know where he is now. My mother-in-law was taken by the soldiers.

In another case, a Pygmy woman was sexually assaulted by soldiers. A witness said:

In Nombi a Pygmy woman was attacked by soldiers. She had gone into the forest to search for food and met a group of military from Mambasa. They were in civilian clothes and spoke both Lingala and Swahili. There were many of them. They captured the woman and interrogated her. She told them she was looking for food to trade for salt. They got out some salt they had and forced her to eat it at gunpoint. They also made her eat a kind of meat she didn't recognize. After eating all this they shaved her head and forced her to strip. A soldier then put his hand into her vagina. No one stopped it. They let her go but told her she must not talk about what had happened. She was very sick from having eaten all the salt and when she arrived back at her Pygmy camp she told the others what had happened. They tried to find traditional medicine to help her but she is still sick in Nombi.<sup>222</sup>

Rape was a frequent part of general massacres and other ethnically targeted violence that was taking place in Ituri. In Nyakunde a witness tells of how she was raped by Ngiti combatants:

On the night they came to search out the Hema and the enemies, I was picked out with two other women who were students. When they came to me, they said that they had previously told those who were not enemies to leave Nyakunde. Therefore as I had stayed I must be the enemy and would have to be tortured. They bound my hands, took me out of the room and started to beat me. They hit me repeatedly on my head and my back.

At about 4:00 in the morning they made us walk to the nurses' compound. They made us go into the first house and continued to hit us. There were about nine combatants – four of them had guns, others had machetes, spears, and axes. They made us strip and then they raped us. Two men raped me, three men raped each of the other girls – it lasted about an hour and a half. I knew the men who raped me. They were people from Nyakunde. One said to me that he had liked me before but that my parents wouldn't let him marry me. He said he could do whatever he wanted to me and that I didn't have a word to say about it. He even said he could kill me if he wanted to.

After they finished raping me they said I could put on some of my clothes and that I should go to check on my son – he was just twelve years old. My son had a Lendu father, so he is Lendu although I am considered Hema. They started to accompany me to the hospital but then they disappeared and I fled. The other two girls were taken to another house, but I don't know what happened to them. I looked everywhere for my boy that night but couldn't find him. I heard they had taken him to transport their goods to Songolo and it was only much later that I heard from a friend that he had died.

I am now five months pregnant by the men who raped me. I don't know what to do. I have no future.<sup>223</sup>

In another case, it was Hema combatants of the UPC who raped two young Lendu women. A witness said:

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<sup>222</sup> Human Rights Watch interview, Beni, February 2003.

<sup>223</sup> Human Rights Watch interview, Oicha, February 2003.

In July 2002, two young Lendu women were abducted and raped by UPC militias. They were going to the market from Rwankole with the husband of one of the women when some UPC members identified the women as Lendu. They took the two women and the young husband into a nearby building. They put them in a room and beat them. They killed the husband with machetes and raped the women. Many soldiers raped them. They stayed there for thirteen days with almost no food. A soldier sometimes gave them water. They were held naked throughout and were raped repeatedly. They saw the husband being buried in the compound. Another Bira boy was also killed in front of them with machetes and buried in the same grave. The soldiers suspected him of being a Lendu combatant.<sup>224</sup>

Women who have been brutalized by sexual violence may suffer continuing physical problems or may contract sexually transmitted diseases or be infected by HIV-virus. Most such victims receive no medical help, either because there is no functioning medical facility near enough to visit or because they fear that seeking help will make the crime generally known in the community. Many girls and women will never recover from the physical, psychological, and social effects of these assaults and some will die from them.

### **Child Soldiers**

All armed groups fighting in Ituri have large numbers of children in their ranks.<sup>225</sup> As the war intensified, the forced recruitment of children also increased dramatically. Children as young as seven, including girls, have been recruited for military service.

Protocol II of 1977 to the 1949 Geneva Conventions prohibits all combatants in an internal armed conflict from recruiting children under the age of fifteen or allowing them to take part in hostilities.<sup>226</sup> The basic human rights standard on the recruitment of children for the armed forces is set by article 38 of the Convention on the Rights of the Child (CRC), ratified by the DRC in 1990, which restates the ban on the recruitment of under-fifteens established in Protocol II.<sup>227</sup>

The CRC's article 38 is an anomaly in using a fifteen-year age minimum; in all other respects, the CRC definition of a child is any person under the age of eighteen. Other international standards have been adopted since the drafting of the CRC that strengthen protections for children affected by armed conflict. These standards reflect a growing international consensus that children under the age of eighteen should not participate in armed conflict. The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict establishes eighteen as the minimum age for direct participation in hostilities, for compulsory recruitment, and for any recruitment or use in hostilities by irregular armed groups. The DRC ratified the Optional Protocol in November 2001.

Human Rights Watch researchers observed a large number of child soldiers among UPC combatants. In an interview with Human Rights Watch researchers, UPC President Lubanga claimed to have 15,000 troops. Local experts and observers believe that nearly 40 per cent of these are children under the age of eighteen. In February 2003, witnesses saw newly recruited children, still in their school uniforms, on the streets of Bunia. During their visit to the president, researchers saw a number of soldiers guarding his residence who were clearly younger than eighteen. When asked about this, Lubanga said, "The UPC does not have many children under eighteen. When we recuperate people from the militia, we sometimes find children. We don't force anyone. It is just those who come freely."<sup>228</sup>

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<sup>224</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>225</sup> In this report, consistent with international legal standards, the word "children" refers to any person under the age of eighteen.

<sup>226</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, art. 4(3)(c). Although the DRC is not a party to Protocol II, many of its provisions are widely accepted as customary international law.

<sup>227</sup> Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990.

<sup>228</sup> Human Rights Watch Interview with UPC President Thomas Lubanga, Bunia, February 14, 2003.

Yet there are frequent reports of the forcible recruitment of children by the UPC. On November 8, 2002 at 8:00 a.m., the UPC reportedly entered the Ecole Primaire of Mudzi Pela and forcibly rounded up the entire fifth grade, some forty children, for military service. A similar operation was carried out in Salongo where the UPC surrounded a neighborhood and then abducted all the children they could find. At the end of November, a school director complained that half of his students had been lost and spoke openly against the forcible recruitment. The Mothers Forum of Ituri complained to UPC President Lubanga in late 2002 about the recruitment of children. The UPC opened a small demobilization center, but, according to local people, this was a mere public relations gimmick; the recruitment of children continued.<sup>229</sup>

Witnesses report that at the start of the conflict each Hema family had to give one child to the Hema militias or had to pay to be exempt from this obligation. If parents refused, their children were taken by force. Parents with the necessary financial means sent their children away to Kisangani, Kampala, or elsewhere to avoid their being pressed into military service.<sup>230</sup>

Many observers described the UPC force as “an army of children”. The children, some as young as seven and including girls, were trained by the UPC at training centers in Mandro and Rwampara for one to two months before being sent into action. A person arrested by the UPC in Bunia said he was guarded by child soldiers.” There were four children guarding the cell, all under 13,” he recounted. “I asked them what they were doing there. They said their parents were dead and they could earn something in the army. One of them said he’d done only three years of school. They were all armed but you could tell they didn’t want to be there.”<sup>231</sup>

MONUC observers reported back to headquarters in Kinshasa that an estimated twenty percent of the recruits in Mandro camp were children.<sup>232</sup> Other sources estimated the Mandro camp to have about 5,000 fighters, implying there may have been nearly 1,000 child soldiers there. On September 10 and 27 MONUC officers reported to Kinshasa that the UPC was continuing forcible recruitment of children. When MONUC staff took up the problem with UPC Commander Bosco he said that “the underage children were all orphans and that the UPC were looking after them.”<sup>233</sup> He insisted that all recruitment was voluntary.

The UPC has even mobilized child soldiers who were demobilized by efforts of UNICEF in late 2000. MONUC protection officers and other independent sources, including Human Rights Watch, reported that Congolese children, mostly Hema, were being training in Uganda. After local and international pressure, the Ugandan army admitted that it was training the Congolese recruits and gave UNICEF and other agencies access to them. The group included 163 children. With much fanfare, these child soldiers were returned to Bunia in early 2001, a “success” in demobilizing children. But little was done for the children after their return and the majority of them, an estimated 130, have since been recruited again by the UPC.<sup>234</sup>

The Lendu and Ngiti militias also reportedly have children in their ranks. Witnesses said that during a number of attacks, women and children were used as shields for combatants, but that at other times they served as a fighting force primarily to loot but sometimes engaged in combat as well. During the Nyakunde attack described above, a witness reported that one of the groups who attacked “was mostly made up of women, children and older people. They were all carrying more traditional weapons like axes, arrows and spears.”<sup>235</sup> Another witness said that, “The children were also killing. They were aged twelve and upwards. They had firearms and knives.” An Ngiti recruiter told Human Rights Watch researchers that most Ngiti militia members being trained in Bunia were adults but that sometimes children under eighteen would also be trained.<sup>236</sup>

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<sup>229</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>230</sup> Ibid.

<sup>231</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>232</sup> Internal MONUC correspondence, September and October 2002.

<sup>233</sup> Ibid.

<sup>234</sup> Human Rights Watch interview with local NGOs, Bunia, February 2003.

<sup>235</sup> Human Rights Watch interview, Oicha, February 2003.

<sup>236</sup> Human Rights Watch interview, Beni, February 2003.



## VI. THE CURRENT SITUATION

In the Luanda Accords of September 6, 2002, Uganda and the DRC agreed that an Ituri Pacification Commission (IPC) would be established as an interim structure to govern Ituri after the departure of the Ugandan army and until a regular Congolese administration could be set up. The DRC government and the local parties were to organize the IPC with the support of the UN, but early organizational efforts failed and fighting continued. A number of high-level meetings raised hopes for action in February 2003 but the UPC contested the composition of the commission, rejected any role for Kinshasa, and demanded that a more "neutral" chair replace MONUC. According to observers, Lubanga pushed for peace on his terms or no peace at all.<sup>237</sup>

The Ugandan army removed the UPC from power in March, making UPC objections less of an obstacle, and the IPC was launched in early April. By April 24 it had finished its work:

- establishing a new Interim Special Assembly with an executive to be headed by a coordinator until the new DRC transitional government takes power
- abolishing the role of governor, thereby ending the status of Ituri as a province
- setting up a Prevention and Verification Committee to look into the causes of the conflict and to prevent further violence
- creating a consultative team from all the armed groups to restrain combatants
- establishing a human right committee to help victims and work towards educating the public on issues of human rights.

The new structure had no real force to execute its decisions. The Ugandan army tried to install a combined general staff with Commander Jerome from Aru at its head, but other parties refused and this proposal collapsed within days. With the departure of Ugandan forces in early May, a MONUC force strengthened by some 200 Uruguayan troops was left with the task of trying to support the IPC. Within days of the Ugandan army withdrawal from Bunia, fighting restarted between UPC and Lendu and Ngiti militia, killing hundreds of civilians as each militia attacked people of the opposite group. MONUC increased its troop presence to 700, but the Uruguayan guard units were neither capable nor equipped to deal with the scale of the fighting. They withdrew to their compound surrounded by nearly 20,000 civilians seeking protection.

With the prospect of escalating violence, the Security Council voted on May 30, 2003 to create an Interim Emergency Multinational Force to provide security and protection for civilians in Bunia, including members of the interim assembly, while MONUC reinforced its presence with troops due to arrive before September 1.

## VII. INTERNATIONAL LAW AND JUSTICE

The armed forces and militias involved in the Ituri conflict have been responsible for serious violations of international humanitarian law, also known as the laws of war. The individuals and armed groups that have carried out massacres, murders, rapes, inhumane acts such as cannibalism, and other crimes in Ituri must bear primary responsibility for them. But armed forces and political movements under the control of governments, namely Uganda, Rwanda, and the DRC, are also responsible for having provided military and other support to local groups with abysmal human rights records. Apart from a few exceptional cases where Ugandan or Congolese soldiers have intervened to halt abuses, the government forces have not restrained the armed groups over which they exercise control. Uganda bears particular responsibility among the governments for having fuelled ethnic violence between the Hema and the Lendu for its own immediate interests. Ugandan soldiers have themselves committed numerous violations of international humanitarian law in Ituri since 1999.

### **International Humanitarian Law**

Under the 1949 Geneva Conventions, the ongoing war in the DRC, including in Ituri, is an international armed conflict that intersects with several internal conflicts. International armed conflicts, defined as those occurring

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<sup>237</sup> Human Rights Watch interview, UN official in Kampala, February 2003

between states, are regulated by the 1949 Geneva Conventions, the First Additional Protocol of 1977 to the Geneva Conventions (Protocol I), and customary international humanitarian law. Internal armed conflicts are those arising within the territory of a state party to the Geneva Conventions and are covered by article 3 common to the 1949 Geneva Conventions and the Second Additional Protocol of 1977 to the Geneva Conventions (Protocol II), as well as by much customary law applicable to international conflicts. The DRC ratified the 1949 Geneva Conventions in 1961 and Protocol I in 1982. Uganda ratified the Geneva Conventions in 1964, and Protocols I and II in 1991.

Common Article 3 to the Geneva Conventions expressly binds all parties to an internal conflict, including non-state armed groups, such as Lendu militias, Ngiti militias, and UPC/Hema militias, although they do not have the legal capacity to sign the Geneva Conventions. Common Article 3 requires the humane treatment of civilians and captured combatants and prohibits violence to life and person, particularly murder, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity; and the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court.<sup>238</sup> Customary international humanitarian law also prohibits armed groups from directly attacking civilians or carrying out attacks that have a disproportionate or indiscriminate effect on the civilian population.

In violation of Common Article 3, the various armed political groups and militias, including the RCD-ML, MLC, RCD-N, UPC/Hema militias, Lendu militias, and Ngiti militias, have committed deliberate killings of unarmed civilians on a mass scale. They have also carried out summary killings of captured combatants, torture and arbitrary arrests, rape and other direct assaults. Some forces have also engaged in cannibalism and deliberate mutilation of corpses. Although in some cases the alleged perpetrators have been identified, those responsible for countless atrocities in Ituri have not been brought to justice. This culture of impunity has further fuelled the cycle of violence.

Where Ugandan forces exercised control or authority over the civilian population in the DRC, they were bound by provisions of the Fourth Geneva Convention that apply to occupied territories.<sup>239</sup> Military commanders on the spot must respect the fundamental rights of the civilian population.<sup>240</sup> Specifically prohibited are physical and moral coercion against civilians and captured combatants (article 31), corporal punishment and torture (article 32), and collective punishment, pillage and reprisals (article 33). Women shall be especially protected against any attack, in particular against rape, enforced prostitution, or any form of indecent assault. Everyone shall be treated with the same consideration by the occupying power without any adverse distinction based, in particular, on race, religion or political opinion. Private property may not be confiscated.<sup>241</sup> Ugandan soldiers deployed in Ituri at times engaged in one or several of these prohibited actions, such as the deliberate killing of civilians during the attack on the governor's residence and surrounding areas in Bunia in early August 2002.

Under international humanitarian law, an occupying power has a duty to restore and ensure public order and safety in the territory under its authority. It is responsible for protecting the population, including minority group members, from violence and reprisals by third parties, such as armed groups.<sup>242</sup> During the period of occupation by Uganda, this placed a duty on their armed forces to restore and ensure public order in such places as Bunia, Nyakunde, Mongbwalu, and Drodro. In countless cases, the Uganda army was in breach of its responsibilities under the Geneva Conventions by not defending vulnerable populations, both Hema and Lendu, in areas under its control.

Uganda also has the responsibility under international humanitarian law to prevent violations of international humanitarian law by forces over which it exercises effective control. The International Court of Justice has ruled

<sup>238</sup> Geneva Conventions of August 12, 1949.

<sup>239</sup> Under international humanitarian law, an occupying power takes on the role as a transitional administrator of a sovereign territory. As such, it is not entitled to change the legal status of the territory, a principle that Uganda has violated by creating the province of Ituri.

<sup>240</sup> Fourth Geneva Convention, arts. 29, and 47.

<sup>241</sup> Hague Convention, art. 46; Fourth Geneva Convention, art. 27.

<sup>242</sup> 1907 Hague Convention, art. 47.

that a foreign state is responsible for the conduct of a faction in a civil war if the faction is a *de facto* agent of the foreign state or the foreign state otherwise orders it to commit certain acts.<sup>243</sup> The Ugandan authorities have had a close relationship at different times with the UPC forces and Hema militias and with Lendu militias and others from the former FIPI coalition, having armed and trained these groups. Uganda violated international humanitarian law by not using its influence to stop gross violations of human rights by these groups.

Ituri is a humanitarian catastrophe: over 500,000 people have been displaced from their homes and large segments of the population at risk do not have access to humanitarian assistance.<sup>244</sup> Under the Geneva Conventions, Uganda was responsible for providing secure and unimpeded access for humanitarian agencies to vulnerable populations and for respecting their independence and impartiality. Humanitarian personnel were also to be respected and protected. Uganda had a special responsibility as an occupying power to maintain hospitals and other medical services “to the fullest extent of the means available to it”<sup>245</sup> which includes protecting civilian hospitals, medical personnel, and the wounded and sick. Uganda violated their international obligations by allowing humanitarian agencies to be blocked in Bunia for over six months in 2002 without reviewing the restriction or exerting influence to open up access to areas where civilians were in desperate need. As a result, thousands are believed to have died from lack of access to humanitarian assistance.

### **International Criminal Court**

The DRC government ratified the Statute of the International Criminal Court (ICC) on March 30, 2002<sup>246</sup> and its cabinet drafted implementing legislation in June and October 2002, though this has still not been sent to parliament. The draft legislation incorporates into domestic law all the ICC crimes and provides for full cooperation between the ICC Prosecutor and Congolese judicial authorities.

With the ratification of the ICC Statute, any crime of genocide, crimes against humanity or war crimes<sup>247</sup> committed after July 1, 2002 on any part of DRC territory or anywhere by Congolese nationals may be subject to ICC prosecution, if the DRC government is unable or unwilling to prosecute such cases itself.

It is highly likely that crimes committed in Ituri after July 1, 2002, will be subject to ICC jurisdiction. The Kinshasa government does not yet have full control over Ituri and is not able to exercise judicial functions in the territory. Any trials within the DRC for crimes committed in Ituri after July 1, 2002 will not prevent the exercise of ICC jurisdiction if the trials are shown to have been organized for political reasons and without regard to due process.

## **VII. RESPONSE OF THE INTERNATIONAL COMMUNITY**

The major powers with an interest in Africa have long professed a desire to see an end to the war in the DRC. They have invested diplomatic efforts and some financial resources in facilitating negotiations among the national governments and the rebel movements with national pretensions that are the parties to the war. Members of the UN Security Council and missions from various heads of state have toured the region, attempting to rally support for an end to the conflict. But these efforts dealt with only the top layer of conflict and failed to address the

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<sup>243</sup> See Case Concerning Military and Paramilitary Activities in and against Nicaragua, Nicaragua v. U.S.A (Merits) (“Nicaragua”), 1986 I.C.J. Reports; see, e.g. ICTY, *Prosecutor v. Zlatko Aleksovski*, Judgment of June 25, 1999.

<sup>244</sup> Estimates of the UN Office for the Co-ordination of Humanitarian Affairs (OCHA), January 2003.

<sup>245</sup> Fourth Geneva Convention, arts. 55 and 56.

<sup>246</sup> Journal Officiel de la RDC 43eme annee, numero special, December 5, 2002, p. 169.

<sup>247</sup> International humanitarian law has historically restricted use of the term “war crimes” to international armed conflicts. Much of the conflict in Ituri is considered a non-international (internal) armed conflict. Increasingly, serious violations of international humanitarian law committed in non-international armed conflicts have been recognized as war crimes, such as under the Rome Statute of the International Criminal Court.

smaller, local wars, themselves sustained by the larger war, which have killed tens of thousands of people<sup>248</sup> and wrecked the lives of thousands of others who have been raped, injured, and deprived of home and property. The failure to address the conflict in Ituri finally produced a crisis that required an international intervention force. Unless that force is adequately supported and able to ensure the protection of the civilian population in Ituri, that conflict and others like it in the Kivus, will endanger all the carefully engineered arrangements meant to end the war at national level.

### **The United Nations and MONUC**

UN pronouncements about ending the DRC war notwithstanding, the UN Security Council was slow to authorize a force to supervise the initial Lusaka Peace Accords and the force it mustered was small and inadequately equipped. The Security Council initially authorized some 5,537 troops—including 550 UN military observers with the rest being troops to protect them and UN installations—but it took years for the MONUC forces to reach this level. Charged with monitoring implementation of agreements ending combat between national forces, MONUC concentrated its first small troop deployment of fewer than 2,000 troops along the ceasefire line, where it recorded general compliance with the terms of the treaties. But far from the front, fighting continued in the Kivus and Ituri where proxy forces and local militias picked up the guns put down by the main actors.

Information about the local war in Ituri was available both from UN agencies and from independent sources. A UN agency with an active presence in Ituri, warned in an internal report in February 2001: “The situation in Ituri today is highly explosive. Individuals and groups on all sides are said to be preparing new massacres, arms are being bought and distributed within and around Bunia. If actions are not undertaken immediately to diffuse tensions, larger-scale, more violent and uncontrollable confrontations are to be feared.”<sup>249</sup> In March 2001, the then UN Commission on Human Rights Special Rapporteur for Congo, Roberto Garreton published a report that described the ethnically targeted violence in Ituri and linked it with the exploitation of natural resources.<sup>250</sup> The final report in 2002 from the UN Panel of Experts on Illegal Exploitation of Natural Resources and other Forms of Wealth in the DRC depicted in more detail the link between the ethnic violence and the desire by Uganda to exploit the natural resources of Ituri.<sup>251</sup> The Security Council invited analysts from nongovernmental associations, including Human Rights Watch, to brief members on the local wars. In September 2002, the UN Secretary General, in a Special Report on the United Nations Organization Mission in the DRC (MONUC), termed the situation “explosive.”

Despite the amount of information available, some UN members and officials did not recognize the complex connections between the local and the larger war and treated Ituri as a “tribal war,” not suitable for UN action. The Special Representative of the Secretary General for DRC, Amos Ngongi, was cited as having said that in Ituri, “Congolese are fighting among themselves,” a conclusion that falls far short of describing the complexities of the conflict.<sup>252</sup>

Unwilling to get further involved in the local facet of the war, the UN acquiesced in continued Ugandan control of Ituri, whether directly or through its various surrogates. After the establishment of the IPC in September 2002, MONUC undertook to support the new institution, but with only ten observers, it lacked the means to back the commission and to oblige the UPC to cooperate with it.

At the end of 2002, MONUC did indeed move quickly when the MLC and RCD-N advanced against the RCD-ML positions in Mambasa and further south towards Beni. It denounced this violation of the ceasefire and

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<sup>248</sup> International Rescue Committee, “Mortality in the Democratic Republic of Congo: Results from a Nationwide Survey, April 2003. According to this report estimates vary from 3.0 to 4.7 million deaths throughout the Congo since the start of the war in 1998.

<sup>249</sup> UN internal paper, February 2001.

<sup>250</sup> Commission on Human Rights, Report from the Special Rapporteur on the Question of the Violation of Human Rights and Fundamental Freedoms in the DRC, E/CN.4/2001/40/Add.1, March 27, 2001.

<sup>251</sup> U.N. Security Council, “Final Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the DRC,” S/2002/1146, October 16, 2002.

<sup>252</sup> Integrated Regional Information Network (IRIN), Special Report on Ituri, December 2002.

eventually brokered a new ceasefire that stopped further fighting. It then placed a MONUC team in Mambasa to observe its implementation. Perhaps finally forced to recognize that arrangements to end the larger war would be constantly threatened if the local wars were not addressed, the Security Council passed Resolution 1445 enlarging the UN peacekeeping force from 5,527<sup>253</sup> to 8,700 troops and requested the Secretary-General to place more MONUC resources in the Ituri region, security permitting. Nearly two years after the first warnings of the impending violence, the resolution expressed the Security Council's "deep concerns over the intensification of ethnically targeted violence in the Ituri region," condemned the violence and incitement to violence taking place, and called on combatant forces in the region to take immediate actions to ensure the protection of civilians and end violations of human rights.

It proved difficult, however, to find troops for the DRC mission. No European or North American government would contribute, nor were many African states enthusiastic about participating. While awaiting action from headquarters, the small MONUC team in Bunia attempted where possible to defuse tensions and assist civilians. It was an apparently impossible task, but on occasion the arrival of the MONUC observers on the scene helped avoid confrontations. The mandate for the force authorized soldiers to protect civilians if in imminent danger of harm. The conduct of this small team showed what a courageous interpretation of the mandate could achieve.<sup>254</sup>

In January 2003 MONUC carried out one of its first extensive human rights investigations, looking into accusations against the MLC and RCD-N during their military activities in the last months of 2002. MONUC reported that some of these troops had committed systematic rapes, looting, summary executions and ten confirmed cases of cannibalism against persons of the Nande ethnic group.<sup>255</sup> On January 15 the Security Council condemned "in the strongest terms" the systematic massacres and violations perpetrated by Bemba's MLC and the RCD-N. Declaring sentiments presumably shared by other council members, the US representative expressed revulsion that members of an armed faction meant to take power in a future government could engage in these acts of torture, rape, killing and cannibalism.<sup>256</sup>

Meanwhile both bilateral and multilateral pressure increased on Uganda to withdraw its troops from Ituri. But the departure of Ugandan troops without an international force to replace it would create a power vacuum that could then be filled by local armed groups. In resolution 1468 on March 20, 2003, the Security Council called on Uganda to withdraw and expressed its concern that it had failed to leave by previous deadlines. It also stressed to Rwanda that any return of its forces "would be unacceptable". The Council also again asked the Secretary-General to increase MONUC in Ituri and support the Ituri Pacification Commission.<sup>257</sup>

After a massacre at Drodro made headlines<sup>258</sup> and with the Ugandan army withdrawal impending, MONUC announced on April 23 that its troops in Ituri would be increased to 850, of whom 200 would be sent immediately to Bunia. The Ugandan withdrawal on May 6, 2003 resulted in the power vacuum that had been feared. The newly arrived MONUC troops consisting of Uruguayan guard units had no capacity to prevent the fighting in Bunia as Hema and Lendu armed groups vied for control of the town throughout May. On May 30, 2003 the Security Council authorized an Interim Emergency Multinational Force for Ituri with a Chapter VII mandate, so acknowledging the urgent need to protect civilians, including by the use of force if necessary. But this short-term measure ends on September 1, 2003 when a contingent of Bangladeshi troops is due to reinforce MONUC forces in Bunia. As of this writing there is no clear indication how MONUC, with a much weaker Chapter VI mandate, will be able to protect civilians either in or outside of Bunia after the departure of the emergency force.

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<sup>253</sup> Although the UN Security Council had initially authorized a troop force of 5,537 this maximum figure was not reached in initial deployment.

<sup>254</sup> Human Rights Watch interview, Bunia, February 2003.

<sup>255</sup> "North Kivu: MONUC Investigation", MONUC press release, February 18, 2003.

<sup>256</sup> Remarks by Ambassador Richard S. Williamson, United States Representative to the United Nations for Special Political Affairs, on the Democratic Republic of the Congo, Security Council, February 13, 2003. To date the report of the investigation has not been published.

<sup>257</sup> United Nations Security Council Resolution 1468, March 20, 2003.

<sup>258</sup> The initial death toll of this massacre were widely exaggerated with reports claiming nearly 1,000 dead. Later investigations revealed a much lower number of deaths. But it was symptomatic of the killings taking place in Ituri.

In its March 20, 2003 resolution, the Security Council condemned the human rights violations committed in the DRC, and particularly in Ituri. It said that members of the MLC, RCD-ML and the UPC had perpetrated these crimes and that they would be held accountable for them. The ICC will have jurisdiction to initiate an investigation into war crimes and crimes against humanity committed after July 2002. Far less clear is what mechanism - if any - will be put in place to investigate and prosecute those international crimes committed before this date. The Security Council has requested the Secretary-General, in consultation with the High Commissioner for Human Rights, to make recommendations to the council on how to address the issue of justice for these crimes.

### International Donors

The Ugandan, Rwandan and the DRC governments depend heavily on donor assistance, a situation that presumably gives major donors significant leverage in influencing their policy decisions. These donors often say they are committed individually, as U.N. members, and as members of multilateral financial institutions to ending the DRC war, in part because they know that the conflict and attendant military spending hampers the reduction of poverty and the economic development that they seek to promote. Donors also know that the assistance they give for economic development or for humanitarian relief is fungible—that is, funds given for one purpose, such as education, frees up money that can then be spent for another purpose, such as buying weapons. Donors must find effective ways to monitor the use of the money they deliver; otherwise they may end up funding further war and the human rights violations that it has entailed.

In fiscal year 2000 to 2001, for example, international donors financed 55 percent of Uganda's budget, a total of US\$582.2 million. Since 2000, Uganda also received about \$2 billion in debt relief from various sources. The International Monetary Fund (IMF) in September 2002 approved a further three-year arrangement under the Poverty Reduction and Growth Facility for US\$17.8 million for Uganda. At the same time as these new commitments were being made, Uganda overspent its defense budget by more than 30 percent, according to estimates by the International Institute of Strategic Studies.<sup>259</sup> It also moved expenditure from other ministries to its defense and security budgets.<sup>260</sup> The Defense Minister in 1999 admitted during an inquiry that the Defense Ministry hid its spending within other budget lines to avoid pressure from donors.<sup>261</sup>

Despite their stated desire to end the DRC war, donors failed to use their leverage effectively and for years made little progress in persuading the parties to halt the conflict. In 2002 both bilateral and multilateral donors took stronger stands. In May the International Monetary Fund (IMF) linked resumption of aid to DRC to further progress in the peace process (and also to progress in pursuing economic reforms).<sup>262</sup> The U.S. also refused to support a Rwandan bid for renewal of its IMF assistance and, according to State Department sources, told Rwandan authorities that their stand was a response to continued Rwandan presence in the DRC and to human rights abuses committed by its forces there.<sup>263</sup> The Danish government cut its aid to Uganda in early 2002 as a result of concerns about Ugandan military activity in the DRC.<sup>264</sup> Faced with these and presumably other instances of increased pressure, Rwanda and Uganda withdrew their regular military units in 2003, thus meeting a major policy objective of many donors. Both retained sufficient influence with Congolese actors to protect their interests, both in Ituri and elsewhere.

Donors have raised human rights concerns but have used their leverage even less effectively on these issues than for bringing an end to the war. Sufficiently well informed about human rights abuses in the DRC by their own embassies, by U.N. agencies, and by national and international human rights organizations, donors have not

<sup>259</sup> IISS make *estimates* of military spending as opposed to using reported figures. This figure is based on estimates from various IISS *Military Balance* publications, 1997 - 2001.

<sup>260</sup> Republic of Uganda: *Semi-annual Budget Performance Report FY 2001 / 02*, MFPED, April 2002.

<sup>261</sup> "Creative Accounting in Africa: Hidden skills", *The Economist*, October 9, 1999.

<sup>262</sup> "IMF dangles aid carrot for Congo", BBC New Online, May 1, 2002.

<sup>263</sup> Human Rights Watch interviews, Washington, July 23 and October 8, 2002.

<sup>264</sup> "Denmark cuts Aid to Kampala," *The New Vision*, Kampala, February 1, 2002.

succeeded in getting governments and other actors to end their abuses in the DRC nor to punish the perpetrators in their ranks.

### **The European Union**

Until mid-2002, the European Union (EU) proved largely ineffective in influencing developments in DRC because leading member states were divided over which side to support: the United Kingdom—generally supported by Germany and the Netherlands—backed Rwandan and Uganda while France—often together with Belgium—backed the DRC government. Throughout the war the EU issued several statements denouncing violence against civilians, including one in February 2001 that identified the role of Uganda in exacerbating the conflict between Hema and Lendu. It noted, “the continued military presence of the Ugandan army in this part of the DRC ... hampers the efforts to re-establish peace there.”<sup>265</sup> Yet apart from this reprimand, the EU did little publicly to pressure Uganda for a change in behavior.

EU members subscribe to a Code of Conduct on Arms Exports that prohibits arms transfers that might “aggravate existing tensions or armed conflicts in the country of final destination” or risk fuelling human rights abuses. Yet they did nothing to halt the delivery of arms to the Great Lakes, a region where the plethora of arms was certainly contributing to human rights abuses. In June 1999 an EU presidential statement reminded members of their obligation to uphold the Code of Conduct, but a year later, in May 2000, members still failed to agree on a suspension of arms shipments to the Great Lakes region, some arguing that any such embargo would always be violated. But by January 22 and 23, 2001, the General Affairs Council had decided to ask relevant EU bodies to facilitate early recommendations on “a possible embargo and its modalities to stem the flow of arms fuelling and protracting the conflict in the DRC and the Great Lakes region.”

In the past year, efforts have reportedly been made to secure a more coherent EU policy on the Great Lakes. In January 2002, the French and British Foreign Minister made a joint mission to the Great Lakes, meant to promote peace in the region as well as to attempt to unify EU policy on the area, with a repeat visit due in 2003. The EU role in DRC, and specifically Ituri, got a substantial boost with the agreement that the EU would lead the Interim Emergency Multinational Force to Ituri under its European Security and Defense Pact – the first time such a force has been authorized outside of Europe. Although France is taking a leading role in the multinational force, the UK will also send a small number of troops.

### **The United Kingdom**

Prime Minister Tony Blair publicly stated in October 2001 that “The international community could..., with our help, sort out the blight that is the continuing conflict in the Democratic Republic of the Congo, where three million people have died through war or famine in the last decade.”<sup>266</sup> As the largest bilateral donor to Uganda and the second largest to Rwanda, the UK appears well-placed to bring pressure to bear on those governments to change their conduct in the DRC. Former Secretary of State for International Development, Clare Short expended considerable effort in trying to minimize tensions and avoid a possible war between Rwanda and Uganda but did not invest similar effort in trying to bring about an end to human rights abuses in parts of the DRC controlled by Uganda or Rwanda.

The UK government, like many other donors, has moved towards delivering assistance through balance of payment support to the Ugandan and Rwandan governments, meaning that funds are given without being linked to specific projects. Acknowledging the possibility that such open-ended contributions might end up covering military expenditures, the UK urged Ugandan authorities to review defense spending and in 2001 began examining such expenditures with a view to ensuring greater transparency. To date the outcome of this review is unknown. Meanwhile, the British government has continued to support Uganda and Rwanda politically and financially. British authorities generally abstained from any open criticism of either Uganda or Rwanda. If they

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<sup>265</sup> European Union, “Declaration of the Presidency on behalf of the European Union on the Hema-Lendu conflict in north-eastern DRC,” Brussels, February 1, 2001.

<sup>266</sup> Prime Minister Tony Blair, to the Labour Party Conference, October 2001.

exerted private pressure to persuade them to halt human rights violations by their soldiers or groups controlled by their soldiers in the DRC, such pressure produced little visible result.

The UK parliament has been more critical of the continuing war and its toll on civilians. In a November 2002 report, the All Party Parliamentary Group for the Great Lakes and Genocide Prevention expressed concern about the role of Uganda in the DRC and urged that "allegations about the Ugandan army's role in resource exploitation and human rights violations, especially in the Ituri region" be fully appraised in measuring the success of UK assistance to Uganda.

### **The United States**

The U.S. has long provided substantial support to Uganda, not just because of its ostensible success in economic development and combating HIV/AIDS, but also because it offered assistance in curbing the power of the Sudan, regarded by the U.S. as a major threat to stability in northeastern Africa. In the fiscal year 2001, the U.S. delivered some \$81 million in development assistance and food aid to Uganda; in the fiscal year 2002, U.S. assistance totalled approximately \$71.8 million; and approximately \$70 million was requested for 2003.

In December 2002, the Bush administration certified that Uganda was eligible for preferential trading status under the African Growth and Opportunity Act (AGOA), a program which supposedly includes human rights performance among its criteria for selection. In 2001 the U.S. Department of State in its annual *Country Reports on Human Rights Practices* criticized Ugandan soldiers for human rights abuses in the DRC, but the next year it said that there were "no confirmed reports" of further abuses there in 2002. The 2002 report did note that thousands of civilians had been killed in violence between Hema and Lendu in areas under Ugandan army influence.

In March 2003 U.S. Assistant Secretary of State for African Affairs Walter H. Kansteiner III met with President Museveni in Uganda to discuss bilateral and regional issues but he made no public reference to abuses associated with the Ugandan presence in DRC. Similarly the White House issued no statement critical of Ugandan actions in the DRC after a June 2003 meeting between Presidents Bush and Museveni. According to press accounts and other sources, however, Bush was said to have privately criticized the Ugandan role in Ituri.

In testimony about the Great Lakes before the Africa Subcommittee of the House International Relations Committee on April 3, 2003, Deputy Assistant Secretary of State Charles Snyder focused largely on political and humanitarian developments in DRC. He stressed the need for the withdrawal of Ugandan troops and said only that the U.S. has a "constant and active" engagement on human rights issues, not providing any details.

In a March 2003 document on AGOA, U.S. authorities described the Rwandan human rights record as "poor," an assessment echoed in recent years in the *Country Reports on Human Rights Practices* which criticized the conduct of Rwandan troops in the DRC. In Snyder's April 2003 testimony, he called on Rwanda to cease support for Congolese groups, including the UPC, and to keep its soldiers out of the DRC. The State Department decision to refuse support for the renewal of IMF assistance to Rwanda would have delivered a stronger message to Rwandan authorities had it not been undermined by a more lenient attitude towards Rwanda at the National Security Council, the foreign policy arm of the White House. In a similar case, the State Department attempted to suspend Rwandan participation in the International Military Education and Training (IMET) program run by the U.S. military because of Rwandan activities in the DRC, but was overruled by the Bush administration. The decision to admit Rwanda to the AGOA program despite its "poor" human rights record was also taken by the administration.



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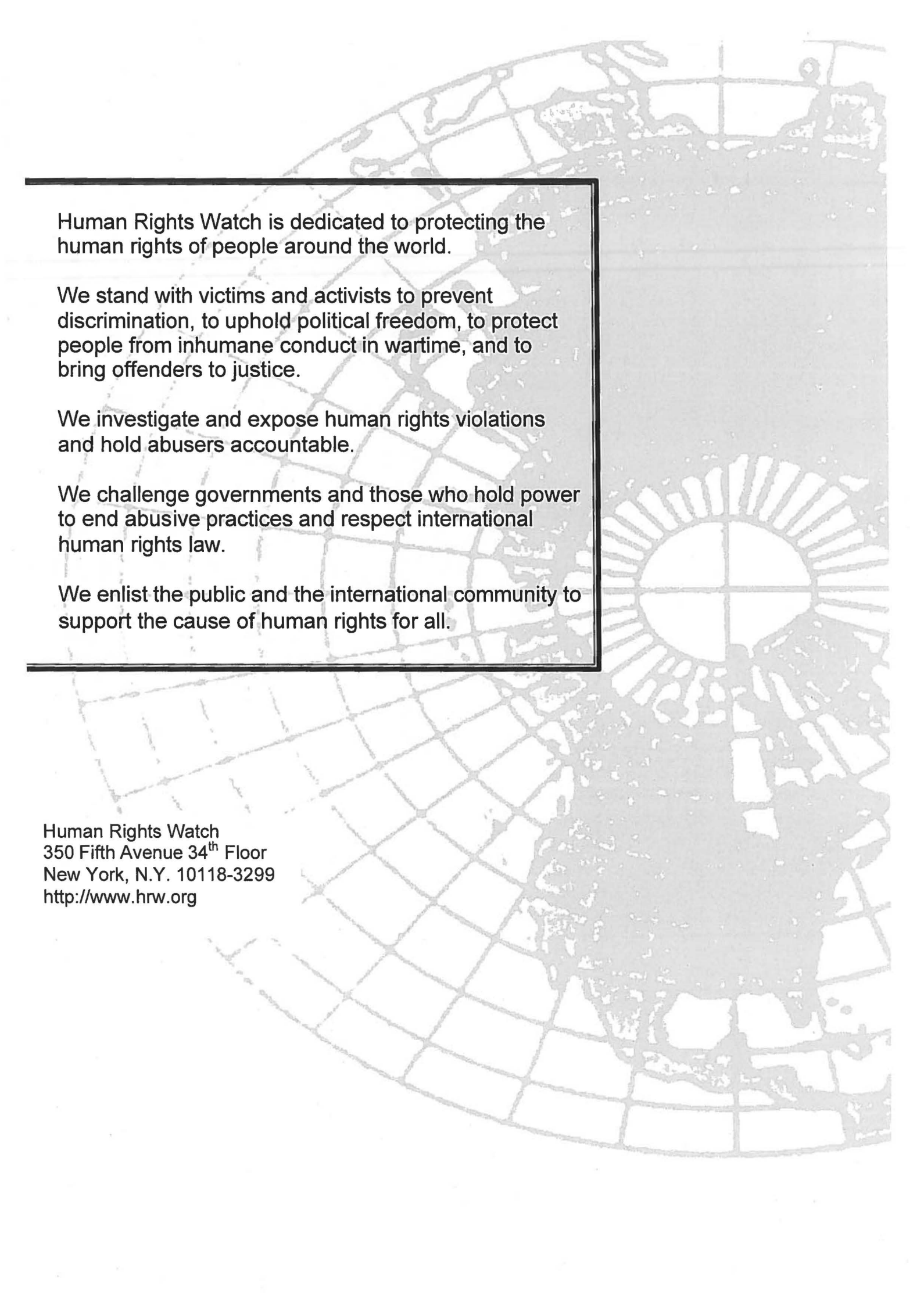
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Its Africa division was established in 1988 to monitor and promote the observance of internationally recognized human rights in sub-Saharan Africa. Peter Takirambudde is the executive director; Bronwen Manby is the deputy director; Janet Fleischman is the Washington director; Alison Des Forges is the senior adviser; Suliman Ali Baldo and Alex Vines are senior researchers; Binaifer Nowrojee and Jemera Rone are counsels; Carina Tertsakian and Lars Waldorf are researchers; Juliane Kippenberg is the NGO Liaison; Caroline Conway, Chiwoniso Kaitano, and Jeff Scott are associates; Corinne Dufka, Sara Rakita, and Tony Tate are consultants. Vincent Mai is the chair of the advisory committee.

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**ANNEX 3.6**

**United Nations Security Council, *Second special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo*, document S/2003/566, 27 May 2003**



## Security Council

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### **Second special report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo**

#### **I. Introduction**

1. The present report is submitted pursuant to Security Council resolution 1417 (2002) of 14 June 2002, by which the Council decided to extend the mandate of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) until 30 June 2003, and Council resolution 1468 (2003) of 20 March 2003, by which the Council, *inter alia*, expressed its support to the broad orientations on the role of MONUC in support of the peace process set out in paragraph 59 of my report of 21 February 2003 (S/2003/211), and expressed its intention to consider my recommendations in this regard. This report also covers major developments since my last report, until 14 May 2003.

#### **II. Political and military developments**

##### **The Final Act of the inter-Congolese political negotiations**

2. On 2 April 2003 in Sun City, South Africa, the participants in the inter-Congolese dialogue signed the Final Act of the inter-Congolese political negotiations that had started in October 2001, by which they formally endorsed a package of agreements that constitute a comprehensive programme for the restoration of peace and national sovereignty during a transition period of two years. The agreements comprise the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed on 17 December 2002 in Pretoria, the Transitional Constitution, the memorandum on military and security issues of 6 March 2003, and the 36 resolutions adopted by the inter-Congolese dialogue in Sun City in March and April 2002. The signing of the Final Act marks a new and important chapter in the process of national reconciliation and peace in the Democratic Republic of the Congo and indeed in the history of the African continent.

##### **Latest developments**

3. Since the signing of the Final Act, the Congolese parties have taken a number of important first steps towards the establishment of the Transitional Government.

After promulgating the Transitional Constitution on 4 April, Joseph Kabila was formally sworn in as President for the transitional period on 7 April. This was followed by the promulgation of a decree granting amnesty for *faits de guerre* and *infractions politiques et d'opinion*, and the abolition of the Cour d'ordre militaire that had been widely criticized for disregarding basic international standards.

4. On 14 April, President Kabila convened in Kinshasa the first meeting of the Follow-up Commission (Commission de Suivi) whose purpose is to prepare for the installation of the new institutions. All of the members of the Commission attended except the Rassemblement congolais pour la démocratie-Goma (RCD-Goma), which did not participate because of concerns about its security in Kinshasa, and the political opposition, which had still not settled on its representatives. After extensive discussions in Goma on 19 April, my Special Representative, Amos Namanga Ngongi, developed a package of confidence-building measures — including MONUC air transport and the deployment of MONUC troops within a limited security zone in Kinshasa — which made possible the travel to Kinshasa of the RCD-Goma delegation on 27 April. Upon his arrival in Kinshasa, the Secretary-General of RCD-Goma publicly announced the end of the war and the lifting of restrictions on the free movement of goods and people throughout the territory of the Democratic Republic of the Congo.

5. The second meeting of the Follow-up Commission on 29 April was attended by its full membership. Two subcommittees were established, namely, the Committee on Political and Security Affairs, chaired by the Secretary-General of RCD-Goma, and the Committee on Logistics, chaired by the Secretary-General of the Mouvement pour la libération du Congo (MLC). During its third meeting, on 3 May, the Commission set 23 May as the date for the swearing-in of the Vice-Presidents, 28 May for the instalment of the Transitional Government, and 10 June for the inauguration of the Senate and the National Assembly.

6. The meeting of Chiefs of Staff also reconvened on 3 May, with a view to concluding the discussions begun in Pretoria on the structure of and distribution of posts within the High Command of the integrated Congolese army. According to the timetable adopted by the Follow-up Commission, the integrated High Command of the new army is to be established by mid-May. Despite the negotiations that have continued daily, the parties have not been able to make progress on this issue, however, as they continue to insist on the previous positions. It is expected that the Follow-up Commission will set a new deadline for the conclusion of the talks.

7. On 10 April, my Special Representative convened the first meeting of the International Committee in Support of the Transition in Kinshasa, which has since held regular meetings. The Committee comprises diplomatic representatives of the permanent members of the Security Council as well as the Troika of the African Union (Mozambique, South Africa and Zambia), Angola, Belgium, Canada, Gabon, the African Union and the European Union. The Committee met President Kabila on 17 April, with a view to establishing close relations with the Follow-up Commission. All parties agreed that the Congolese actors involved in the Transitional Government should own and drive the peace process, the Committee providing assistance and support.

8. Despite political progress at the national level, hostilities continued in the east, in particular between Lendu-based and Hema-based militias in Ituri, and between

RCD-Goma, Mai-Mai and other armed groups in the Kivus. These hostilities have been marked by widespread and gross violations of human rights.

### **Situation in Ituri**

9. MONUC multidisciplinary special investigation teams have confirmed that massacres of both Lendu and Hema have been perpetrated in Ituri since February 2003. From 17 January to 6 March, in an attempt to take over full control of the Ituri region, a militia group known as the Union of Congolese Patriots (UPC) engaged in large-scale military operations in four localities, resulting in killings, destruction of property and the displacement of a large number of people. Eyewitnesses stated that around 330 civilians were killed in Bogoro, which was completely destroyed, and reported 160 additional deaths in Mandro. In Drodoro, there were killings on a scale hitherto unknown in the area, hundreds of civilians being murdered in a series of well-coordinated summary executions near the parish and 16 neighbouring locations. Twenty mass graves have been identified by MONUC. MONUC, together with forensic experts from the Office of the United Nations High Commissioner for Human Rights, dispatched a second investigative mission to this area, but its work had to be cut short because of the deteriorating security conditions.

10. The humanitarian impact of the armed conflict for the 4.6 million inhabitants of Ituri has been catastrophic. According to the Office for the Coordination of Humanitarian Affairs, between 500,000 and 600,000 internally displaced persons — many of whom remain in hiding and cannot be accounted for — in addition to nearly 100,000 refugees from Uganda and the Sudan, are dispersed throughout the area. Since the first major onslaught of violence in June 1999, the death toll has been estimated at more than 60,000, and countless others have been left maimed or severely mutilated. Of the estimated 400 health centres, 212 have been closed, and not a single surgeon is present. It is estimated that 200 schools have been destroyed. Moreover, the prevailing atmosphere of insecurity has obstructed the humanitarian community's access to sizeable areas of the region, effectively denying the provision of aid to the most vulnerable populations.

11. On 6 March, Ugandan forces (UPDF) recaptured the town of Bunia, which had been under the control of UPC since August 2002. Subsequently, the UPDF presence in Ituri was significantly reinforced, and brought to the level of over 7,000 troops. The Ugandan troops were deployed to all strategic locations in the region. Their deployment did not stem the activities of armed militias, however. It should be recalled that the root causes of the Ituri conflict, which relate to a power struggle indigenous to the area over land and resources, have recently been exacerbated by the protagonists of the wider conflict in the Democratic Republic of the Congo. As a result of the proliferation of armed groups and their constantly shifting allegiances, the situation in the region has become extremely volatile and unpredictable.

12. In view of rising tensions between Rwanda and Uganda over the increased presence of the latter's forces in the region, my Special Representative proposed a trilateral meeting of the heads of State of the Democratic Republic of the Congo, Rwanda and Uganda. The President of South Africa, Thabo Mbeki, hosted such a summit on 9 April in Cape Town, South Africa, at which the Presidents confirmed the timetable for Ugandan withdrawal from Ituri, beginning on 24 April and ending on 14 May. This was followed up by a meeting of President Paul Kagame and President Yoweri Museveni, hosted by the United Kingdom Government on 8 May.

13. In an effort to broker a ceasefire on the ground, and establish a local political process by which the conflict could be addressed peacefully, MONUC also intensified its consultations with key players early in March. This led to the signing on 18 March, of a ceasefire agreement by the Governments of the Democratic Republic of the Congo and Uganda and six armed groups (except for UPC, which had lost virtually all of its territorial control), which paved the way for convening the much-awaited Ituri Pacification Commission. The Ituri Pacification Commission, comprising 177 delegates representing the main communities and groups in Ituri, including some representatives of UPC, met at Bunia from 4 to 14 April under the leadership of MONUC. At the final plenary meeting, which was attended by several Ambassadors of members of the Security Council, the delegates agreed to set up an interim administration, consisting of a 32-member Special Assembly, an 18-member Executive Organ, and three subcommissions — on security and the consolidation of the cessation of hostilities, the re-establishment of public services and the rule of law, and humanitarian assistance and rehabilitation. These bodies commenced their work on 25 April. It has been determined that the interim administration requires some \$300,000 for the initial three months of operation. The necessary funding has yet to be received, however. It is therefore essential that adequate resources be provided to the administration as soon as possible. MONUC continues to provide support to the Ituri Pacification Commission by whatever means possible. The UPC leader also recently voiced his support for the Commission, which was broadcast on Radio Okapi.

14. In order to provide security for an enhanced MONUC presence in Bunia aimed at assisting the political process initiated by the Ituri Pacification Commission, MONUC began deploying an Uruguayan guard contingent and its supporting elements to Bunia on 23 April. To date, 720 troops have been deployed, of the approximately 800 troops envisaged by the end of May. The tasks of the Uruguayan guard contingent are limited, and include a presence at the Bunia airfield and protection of United Nations personnel and facilities, as well as sites of meetings of the Ituri Pacification Commission in Bunia. MONUC also increased the number and strength of military observer teams in Ituri, which were deployed to Aru, Mahagi, Mongwalu, Kaseyni, Kpandroma and Komanda, in addition to Bunia and Mambasa, where MONUC had already established its presence. On 26 April at Komanda, however, one military observer was killed and another wounded in a landmine accident on a road that had previously been used by MONUC patrols. The team site at Komanda has been evacuated for the time being because of the high volatility of the situation and mine threats, but it will be reoccupied as soon as practicably possible. Moreover, owing to the security threats received, teams at Mahagi, Mongwalu, Kasenyi and Kpandroma are also being evacuated. They will be reinstalled as soon as security conditions permit.

15. On 25 April, UPDF began withdrawing troops from Ituri. To date, MONUC has observed the withdrawal of some 2,000 soldiers. Various supplies and equipment were apparently left behind, however. UPDF completed their withdrawal from Bunia on 6 May and plan to complete full withdrawal from Ituri by 19 May.

16. Immediately after the departure of UPDF from Bunia, Hema- and Lendu-based militia groups sought to establish control over the town, resulting in violent clashes, often near United Nations premises. The clashes were accompanied by widespread looting, including of the premises of the Office for the Coordination of Humanitarian Affairs. On 9 May, MONUC headquarters itself became a target of



attack and its guards were forced to return fire to repel the aggressors. Such fighting has panicked the population, several thousands of whom have sought refuge at the United Nations facilities and at the airfield. On 25 April, the Government of the Democratic Republic of the Congo started to deploy elements of its national police, including rapid intervention police, to Bunia. Concerns quickly emerged about their lack of equipment, particularly vehicles, communications and resupply, unclear command arrangements, precise role and relationship with the Ituri interim administration. Nonetheless, MONUC conducted some joint patrols with the rapid intervention police. When the violent clashes began, however, the 700-member police force disintegrated as a unit.

17. On 7 May, my Special Representative met with President Kabila, who agreed to take measures to enhance the leadership of the rapid intervention police and to provide it with sufficient equipment. President Kabila agreed to work closely with the local administration and accepted the responsibility for cantoning armed groups and feeding them for a limited period. At a later meeting with my Special Representative, on 10 May, President Kabila indicated his intention of deploying FAC troops to Bunia to respond to the “emergency situation”. Preliminary reactions from MLC and RCD-Goma indicated that they would support such a move if their own police and armed forces were integrated into the force, while the local Hema groups in Bunia have voiced their opposition to the FAC deployment. MONUC has stressed to the Government of the Democratic Republic of the Congo the need for such a deployment to be effected in the context of the transitional process, and in close coordination with all concerned.

#### **North Kivu and South Kivu**

18. Since my last report, RCD-Goma has continued to redeploy nearly all its military force (11 out of 12 brigades) away from positions on the disengagement line in order to conduct concurrent offensives in the Kivus and Maniema Province. The main areas of conflict are:

- To the west and north of Goma, where RCD-Goma forces have attacked northwards into the territory of RCD-Kisangani/Mouvement de libération (RCD-K/ML), apparently to establish control over the whole of North Kivu.
- To the north-east of Kindu, in the area of Kalima, where RCD-Goma forces have been engaged with Mai-Mai and are advancing west towards Shabunda.
- To the west and south of Bukavu where, early in April, RCD-Goma eliminated its former Mai-Mai ally — the Mudundu 40 group — from Walungu.
- Around Uvira, where RCD-Goma forces have been engaged with a Banyamulenge militia led by Commandant Masunzu and Mai-Mai.

Fighting also broke out between the Mai-Mai and the RCD-Goma at Uvira in the evening of 2 May, during which eight RCD-Goma soldiers were wounded. Though fighting ceased by morning of 3 May, it erupted again on 5 May. While RCD-Goma has claimed that it was trying to recapture territory lost upon the withdrawal of Rwandan troops in the autumn of 2002, it has actually made advances well beyond its former positions by encroaching on the area controlled by RCD-K/ML.

19. Consequently, the humanitarian situation in the Kivus has continued to deteriorate. The latest RCD-Goma offensives have resulted in serious human rights

violations and have triggered new waves of population displacement, forcing tens of thousands of people to take refuge in the forest or nearby villages. The ongoing fighting has disrupted the humanitarian community's regular activities and rendered it difficult to deliver assistance to the war-affected populations trapped between opposing forces. After heavy fighting broke out in Bukavu on 6 April, some humanitarian agencies were compelled to evacuate their non-essential staff and suspend all activities. There have been widespread reports of rape, looting, armed robberies and arbitrary executions by RCD-Goma troops, Interahamwe, ex-FAR (Forces armées rwandaises), Mai-Mai and unidentified armed groups. To mobilize assistance to the most vulnerable groups, MONUC conducted joint humanitarian assessment missions with the Office for the Coordination of Humanitarian Affairs, facilitated the delivery of emergency aid, and negotiated with local authorities on issues of access in many instances.

#### **Disarmament, demobilization, repatriation, resettlement and reintegration**

20. These persistent outbreaks of fighting in the eastern Democratic Republic of the Congo have continued to hamper, disrupt and delay the operations of MONUC to disarm, demobilize and repatriate foreign ex-combatants, the main focus of the mission to date. MONUC has repatriated more than 1,500 Rwandans, including both former combatants and their dependants, since October 2002, while, since the beginning of the year, the Office of the United Nations High Commissioner for Refugees (UNHCR) has repatriated 3,021 Rwandan refugees. Experience indicates that the MONUC voluntary disarmament, demobilization, repatriation, resettlement and reintegration programme can be completed successfully only in conditions of reasonable security, and with the full cooperation of all parties concerned, including the armed groups themselves. RCD-Goma has not offered its full cooperation, often limiting the freedom of movement of MONUC personnel. The Mission's Mai-Mai interlocutors — who were thought to be useful as contacts with the Rwandan combatants in hiding — proved to be unreliable, often demanding monetary compensation for their cooperation.

21. Since the opening of the Lubero disarmament, demobilization, repatriation, resettlement and reintegration reception centre in December 2002, MONUC has conducted intensive discussions with representatives of the Rwandan combatants and their dependants in the vicinity. MONUC estimates there are some 3,000 to 4,000 combatants and several thousand more dependants around Lubero. Although the rank and file are thought to be ready to enter the disarmament, demobilization, repatriation, resettlement and reintegration programme, their hard-line leaders continue to express misgivings, and have shown deep suspicion both of MONUC and of the Government of Rwanda, often propagating their views in radio programmes transmitted from abroad. Consequently, the leadership effectively influenced the combatants not to take part in the programme. The Government of the Democratic Republic of the Congo, which made some progress towards dismantling the leadership of ex-FAR/Interahamwe in accordance with its bilateral agreement with Rwanda of 30 July 2002, has done little in this regard during the period under review.

22. Nonetheless, through sustained personal contacts and a targeted public information campaign, MONUC managed to persuade some representatives of the combatants to agree to enter the disarmament, demobilization, repatriation, resettlement and reintegration process. Attempts were also made to persuade those

States hosting some of the leaders of the movement to approach them with a view to ending negative radio propaganda concerning the activities of MONUC relating to the process. At the end of March, an initial group of some 200 to 300 combatants and their dependants was gathering near Kasuo, in the vicinity of Lubero, preparing to enter the reception centre. However, the group scattered into the forest when RCD-Goma forces attacked and seized the nearby villages of Muhanga and Bunyatenge. Although MONUC is continuing its efforts to contact the combatants' representatives, the situation in the region remains insecure, and it has not been possible to reassemble that group.

#### **Reopening of the Congo River**

23. Significant progress has been made in reopening the Congo River. Building on the achievements of MONUC since July 2002, when regular river traffic was established between Government and MLC areas, the first private commercial traffic allowed by RCD-Goma arrived in Kisangani in February 2003. The entry into force of the All-Inclusive Agreement and its provisions for full freedom of movement, together with the statement made in Kinshasa on 27 April by the Secretary-General of RCD-Goma on the lifting of remaining restrictions, offered new opportunities for a complete reopening of the river. Early in May, MONUC facilitated a visit to Kisangani and Goma by a 20-member senior commercial delegation from the Fédération des Entreprises du Congo in Kinshasa to meet their local counterparts and the RCD-Goma leadership. As a result of the mission, the RCD-Goma authorities confirmed that they would accept commercial convoys to Kisangani immediately. Until the Transitional Government is officially installed in Kinshasa, the existing procedures for river transport will remain in place. A large commercial convoy to Kisangani is expected to depart in 10 days. It was also agreed that a business delegation to Kinshasa from key towns in the east (Kisangani, Goma and Bukavu) would be organized in the coming weeks.

#### **Adjustment of the deployment of the Mission**

24. MONUC has reviewed its deployment strategy with a view to a comprehensive readjustment of its structure, as appropriate, from that based on the Lusaka Agreement to one that meets the needs of the changing political and military situation. Two of the four MONUC coordination centres (Ilebo, Basankusu) are no longer in operation and the guard units assigned to them have been reallocated to other duties, including security arrangements in Kinshasa. The two remaining coordination centres, Boende and Manono, will be closed in the next few months, releasing the guards deployed there for reallocation to other priority areas. In view of the All-Inclusive Agreement that has reunified the territory of the Democratic Republic of the Congo, MONUC is also redeploying some 12 military observer teams from defensive positions along the Kampala/Harare disengagement line to more volatile areas in the east of the country. Consequently, by 30 August, MONUC will have redeployed almost 100 military observers and more than 1,400 troops from phase II to phase III functions. It is also closing 22 team sites in the western part of the country.

### **III. Implementing the transitional agreements**

25. During the two- to three-year transitional period, the Transitional Government will have to simultaneously address immediate challenges and long-term issues. First and foremost, it will have to put in place the transitional institutions and ensure their functioning. It will also have to lay the ground for the democratically elected government that will be established at the end of the transition by preparing for elections and drafting a new Constitution. At the same time, the Transitional Government will have to address security and military matters and respond to the population's expectation of economic improvement.

#### **The responsibility of the Congolese parties**

26. It is clear that the successful implementation of the various agreements reached in the course of the inter-Congolese dialogue depends directly on the political will of the Congolese parties. Years of protracted conflict have left a legacy of mistrust that has undermined international efforts to help the Congolese find lasting solutions to their problems. For the transition to succeed, the Congolese parties must, from the outset, provide strong signals of their intention to implement the agreements they have signed.

27. In the coming weeks and months, the parties must observe a number of key benchmarks to maintain momentum and demonstrate their commitment. These include:

- The immediate cessation of hostilities, including cessation of inflammatory rhetoric and propaganda
- The cessation of military support and supply to all armed groups
- The lifting of restrictions on the free movement of people and goods throughout the country
- The liberalization of political activity in the areas under their control
- The dismantling of armed groups or their transformation into political parties
- The steps to establish the high command of the national armed forces and to form the initial unit of the integrated police force.

28. At the same time, the neighbouring States have the important responsibility to play a positive and constructive role, and assist the Democratic Republic of the Congo in pursuing a path of peace and national reconciliation. They should respect the provisions of the All-Inclusive Agreement and the decision of the Congolese parties to establish a Transitional Government of national unity. Continuing interference in the internal affairs of the Democratic Republic of the Congo can no longer be tolerated. The legitimate security interests of neighbouring States should be taken up with the Transitional Government through peaceful means.

### **IV. The role of the United Nations and the Mission**

29. Since the adoption of Security Council resolution 1468 (2003), by which the Council endorsed the preliminary vision of the role of MONUC during the transition, as outlined in my thirteenth report (S/2003/211), there have been

extensive consultations with the Congolese parties and international partners, including consultations undertaken by a special planning team of the Department of Peacekeeping Operations sent to the country. As a result, a broad outline has emerged of the role MONUC could play and the assistance it could provide for the transitional period. Subject to the concurrence of the Security Council, the Mission's currently mandated priorities would be readjusted, and would consist of the following elements: (a) to provide political support to the transition by assisting the Congolese parties in the implementation of their commitments, leading to the holding of elections, which will be one of the important elements in the Mission's exit strategy; (b) to contribute to local conflict resolution and the maintenance of security in key areas of the country; (c) to continue with its mandated task of the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups while contributing to the disarmament, demobilization and reintegration of Congolese combatants; (d) to serve as a catalyst for the coordination of international political and donor efforts concerning the core issues of the transition; and (e) to contribute to confidence-building between the Democratic Republic of the Congo and the neighbouring States. At the same time, ongoing MONUC activities in vital areas such as human rights, humanitarian affairs, child protection and gender affairs would continue.

#### **A. Immediate priorities**

30. In the coming weeks and months, the following immediate priorities require the attention of MONUC: helping the parties to establish the Transitional Government; contributing to the security arrangements in Kinshasa; assisting in sustaining the peace and reconciliation initiatives in Ituri; contributing to local-level conflict resolution; and continuing the disarmament, demobilization, repatriation, resettlement and reintegration of armed groups in the Kivus.

31. In order to assist in providing immediate support to the preparatory mechanisms of the transition, a Transition Support Unit has been created within MONUC from its existing resources to support my Special Representative in his capacity as convener of the International Committee. The Unit will also monitor the political process, liaise with the parties to the All-Inclusive Agreement and facilitate coordination with other national and international actors. As the transition proceeds, the capacity of MONUC will need to be strengthened accordingly, to include its possible presence and facilitation in important provincial capitals.

32. At the same time, in view of the additional responsibilities envisaged for MONUC, its leadership structure — both civilian and military — would need to be considerably strengthened. To this end, the position of second Deputy Special Representative has already been added, as have other important senior-level posts. The military leadership structure is still in need of enhancement, specifically the establishment of the forward mission headquarters in Kisangani to achieve the appropriate span of command and control; given the size of the country, the increased number of MONUC troops and the complexity of managing several politically sensitive and risky military operations require that the Force Commander and Deputy Force Commander positions be upgraded, and that a Forward Force Commander post be created.

### **Security arrangements in Kinshasa**

33. In the All-Inclusive Agreement, the Congolese parties requested the assistance of the international community in establishing a credible, confidence-building, security system in the initial stages of the formation of the Transitional Government, as some leaders of the transition do not feel confident that the existing structures can provide sufficient security. In particular, under the Agreement, the parties requested the assistance of the international community in providing a “neutral force” for the purpose of general security, while the parties would also provide their own bodyguards.

34. Given that the Congolese themselves are ultimately responsible for the security of the leaders and the institutions, the role of the international community should be limited to assisting them in crafting an effective and immediate means of dealing with the security concerns. With regard to the parties’ request for the deployment of a “neutral force”, it is considered that any international assistance provided by military units or police should come under the command of MONUC to avoid the presence of two separate peacekeeping missions operating in the same theatre under separate chains of command.

35. With these considerations in mind, and on the basis of the threat assessment conducted by MONUC and other international specialists, the following multi-layered confidence-building security system is being proposed:

(a) The existing Congolese police structures (national police, including rapid intervention police, traffic police and territorial police units), which would continue to carry out normal law and order functions in the city;

(b) The close protection corps, comprising personal bodyguards (who operate under the control of an integrated central command) for a limited number of political leaders, which would be reinforced by a newly formed integrated police unit;

(c) A MONUC military contingent consisting of some 740 personnel.

The activities of the proposed security system should be coordinated through a Joint Security Operations Centre, comprising senior-level representatives from all the entities that would be discharging security tasks. Any elements of the Congolese Armed Forces currently deployed in Kinshasa would be garrisoned, in accordance with the agreement reached at the meetings of the Chiefs of Staff in Pretoria in March 2003, and monitored by the military observers of MONUC.

36. It is crucial that the training of a newly formed integrated police unit of a future Congolese integrated police force is pursued at the same time, having in mind the need to make the unit operational within six months after the establishment of the Transitional Government. At that time, the unit is expected to be ready to take over the relevant security tasks from MONUC.

37. Before the formation of the Transitional Government, MONUC intends to use its guard company already present in Kinshasa and to redeploy, from elsewhere in the country, two guard units to the capital. These troops will be assisted by some 30 military police personnel, who will serve as an additional layer of confidence in a specially designated security zone in the capital. The security zone will be limited to the Ndjili airport, specified routes between the airport and the Gombe district, the city centre and the Gombe district itself. MONUC guard units would reassure the

parties with a visible presence in the security zone, both static positions and mobile patrols and armed escorts. MONUC will also have a limited capability to extract threatened persons from the zone. The United Nations activities in this regard will be facilitated by MONUC civilian police officers, who will provide liaison and technical advice to their Congolese interlocutors. In addition, MONUC civilian police officers will advise, monitor and report on the conduct of the various Congolese entities discharging security responsibilities. Such an arrangement is based on the present security assessment and the expectation that the requirement will last for six to nine months. While MONUC would be able to fulfil the requirement for military resources for these tasks by redeploying elements within its currently authorized strength, in the event that the threat level rises considerably or persists longer than envisaged, there will be a requirement to augment the United Nations presence by adding extra guard units and/or, possibly, formed police units.

38. To carry out the new tasks in support of security arrangements in Kinshasa described in paragraphs 35 to 37 above, MONUC would require the following civilian police personnel: 15 civilian police officers, including experts in administration, planning, strategic management and coordination; 55 personnel to serve as liaison officers, 24 hours a day, 7 days a week, to the Joint Security Operations Centre, Congolese police elements and close protection arrangements; and 34 officers to serve as security technical advisers to various Congolese police and security entities as well as the MONUC military contingent charged with security tasks in Kinshasa.

39. The modalities, mechanisms and funding for the creation and initiation of the integrated police unit must be set up without delay. The Government of the Democratic Republic of the Congo and other parties, and eventually the Transitional Government, are expected to provide offices for the Joint Security Operations Centre as well as salaries, accommodation and equipment for the close protection corps and the integrated police unit. The regular payment of salaries will be an essential prerequisite for the entire security structure, which the Congolese parties must address rapidly and as a matter of priority. At the same time, some bilateral donors have shown commendable interest and are assessing the possibility of training police personnel, providing a communications system in Kinshasa for the new security structure and rehabilitating the training centres for the integrated police unit.

#### *Training of an integrated police unit*

40. To quickly form and train the integrated police unit, the best option would be a project to be undertaken by one or more bilateral donors, directly with the Congolese, that would train and equip 1,200 officers for the unit within a period of six months, refurbish the necessary training facilities and provide the communications system to allow the unit to function within the overall Kinshasa security mechanisms. The MONUC civilian police component, together with other United Nations entities, could complement such efforts by providing training assistance on international policing standards in various thematic areas, with a special emphasis on the rule of law and fundamental rights. This option would require six additional MONUC civilian police trainers/coordinators.

41. Should this option be unavailable within the required time limit, a second option would be a combination of direct bilateral assistance to train and equip a

group of 600 integrated police unit officers in Kinshasa, while MONUC would support the training in Kisangani of another group of 600 officers, in a mentoring programme involving Congolese trainers. This mixed training option would require 24 civilian police trainers/mentors. If neither of these options is quickly available, the MONUC civilian police component would undertake the responsibility of training the 1,200 integrated police unit officers, in Kinshasa and in Kisangani, in a mentoring programme involving Congolese trainers. Forty-eight civilian police trainers/mentors would be required for this option. Refurbishment of the training centres, training equipment, further basic operational equipment and communications would be required in all options. The views of bilateral donors are urgently requested to determine the most viable option.

*Reconfiguration of the civilian police component*

42. In view of the new phase of the peace process in the Democratic Republic of the Congo, the MONUC civilian police component is being reconfigured. The current pilot training programme in Kisangani will be suspended, in anticipation of the formation of a future integrated police force. Instead, the focus of the civilian police component will be as follows: (a) assisting in the security arrangements in Kinshasa; (b) contributing to the training of an integrated police unit; and (c) continuing the assessment and planning of its future role in key strategic areas, such as Ituri and some locations in the Kivus. The following structure is envisaged: headquarters staff, including the newly created Kinshasa sector (35), civilian police advisers/liaison officers/monitors to assist the security arrangements in Kinshasa as noted in paragraph 38 above (89); and regional planners/liaison officers to be deployed to Bunia, Goma and Gbadolite (10). Hence, 134 police officers would be needed, 34 more than the currently authorized strength, to meet the basic requirements. From 6 to 48 additional officers will also be required, depending on the training option for the unit to be followed (see paras. 40 and 41 above).

**Peace initiative in Ituri**

43. Ituri has become one of the most volatile and lawless areas in the Democratic Republic of the Congo (see paras. 9-17 above). At this time of hope for comprehensive peace, Ituri continues to have the potential to derail progress made at the national level. It should be noted that the prevailing volatility and ongoing manipulation by various players, and the security risks from well armed, but unpaid, rival militias and from other elements are considerable.

44. The Ituri Pacification Commission process, which was facilitated by MONUC, offers a real chance of comprehensive peace and reconciliation in the area, which must be followed up vigorously. The immediate challenge is to create the conditions of security and confidence for members of the Commission and international personnel present in the region to assist this fledging and still fragile process. While the integration of Ituri within national government structures is the ultimate goal, achieving this will require sustained and determined international and national engagement.

45. To that end, and as security conditions permit, the overall MONUC presence in Ituri would be considerably enhanced by the establishment of the Ituri Pacification Commission Support Unit, which would be staffed by a United Nations multi-disciplinary team and provide comprehensive support to the Ituri interim



administration. All MONUC substantive components (political affairs, human rights, humanitarian affairs, child protection, public information and others) will be represented in the Unit. In view of the need to assist the people of Ituri in setting up temporary local administration — in anticipation of the extension of the authority of the Transitional Government — United Nations civilian affairs officers would also be deployed.

46. MONUC could also establish a small civilian police cell to begin planning assistance, which could be provided by the international community either through MONUC or bilaterally, in the formation of an integrated police element to be introduced to Ituri. A strong human rights presence would also be essential to ensure investigation of violations, to monitor and support the new human rights bodies and to help the judiciary fight the culture of impunity. Military observer teams would also be strengthened and deployed to monitor the withdrawal of UPDF troops, liaise with armed groups and observe their activities, and monitor key population centres and designated airstrips, where possible. That effort would be reinforced by the Mission's proactive public information programme, including the establishment of a radio studio in Bunia, as well as conflict resolution projects using media tools. In view of the massive proliferation of arms in the area, MONUC, in cooperation with the subcommittee on armed groups of the Ituri Pacification Commission, may assist the interim administration in developing a limited local disarmament initiative, for which donor support will be required.

47. MONUC would also work closely with the humanitarian and development community, which is designing a strategy for this long-inaccessible region. Immediate needs include the delivery of emergency humanitarian relief to areas affected by insecurity and fighting; assistance in housing repair in areas devastated by the war; restoration of health and medical services and social support in areas affected by recent massacres; income-generating activities such as road and infrastructure repair to be conducted by the estimated 25,000 militia members and other ex-combatants; assistance for the demobilization and reintegration of child soldiers; and quick-impact projects in areas where United Nations personnel would be deployed.

48. In order to provide protection to United Nations personnel and assets in various locations in Ituri and to establish a framework of security in support of the ongoing political process, it is assessed that, at a minimum, a brigade-size formation consisting of three infantry battalions with appropriate support (logistics, utility helicopters, engineering) and totalling up to 3,800 personnel would be necessary. Even a force of that strength would not be able to provide comprehensive security throughout Ituri or secure all major roads or the border with Uganda. In addition to protecting United Nations personnel and assets and other vital installations in Bunia, the brigade force will secure a United Nations logistical base at Bunia airfield and the immediate environs of the town, support the United Nations military observer teams in accessing the more remote areas, and provide limited support to humanitarian operations in selected locations. By extending its operations beyond Bunia, initially along an axis towards Djugu and Mahagi, the brigade force would expand its security framework and, as the situation further permits, gradually reach airfields, towns and other areas in Ituri.

49. The present deployment to Bunia of the Mission's reserve battalion (supplied by Uruguay) is a limited, interim and emergency measure to ensure that the

momentum of the Ituri Pacification Commission peace process can be maintained in the rapidly changing security situation in the area. The battalion will not be able to extend its presence outside Bunia to other areas of Ituri. By the end of May, the total strength of the Uruguayan contingent in Bunia will be close to 800, including the logistic support elements and engineers. This force will clearly be well below the minimum required to assume full security tasks in the town, and its deployment can only be temporary, as it comes at the expense of sacrificing the fundamental principle of maintaining a Mission reserve battalion for contingencies. The Uruguayan contingent will be needed to reconstitute that reserve as soon as possible.

50. It should be noted that the Uruguayan deployment is the minimum that is militarily acceptable to establish security for United Nations operations at the Bunia airfield, protect United Nations personnel and resources at locations in Bunia, support the Ituri Pacification Commission process and make necessary preparations for the follow-on deployments, as well as logistic sustainment. Of the nearly 800 Uruguayans, just under 450 are infantry troops whose primary roles are to provide a company reserve force to respond to contingencies in Bunia, 24 hours a day, to provide point security at up to eight United Nations and Commission locations in the town (including the airport entrance and sector headquarters), to guard military engineers (who are charged with making necessary road repairs, demining and building accommodations), to escort military observer teams in the vicinity of Bunia, to occasionally patrol Bunia itself and, as may be required, to provide a local escort for United Nations and humanitarian convoys within the town.

51. To provide anything beyond the current deployment in Bunia, and particularly to address the problems in Ituri more widely, the minimum requirement will be a brigade-size formation (Ituri Brigade Force). The Department of Peacekeeping Operations is examining how such a force could be structured and identifying potential contributors of the forces that could be assembled quickly to form the proposed force. The most immediately available element is the 1,700 strong multi-functional battalion group initially envisaged for Kisangani, which includes one infantry battalion, supported by transport helicopters, engineers, airfield service units, military police and an air medical evacuation team. Attack helicopter assets to be deployed to support phase III MONUC operations would support the Ituri Brigade Force as the main priority. Potential troop contributors for the initial elements of the Force have already indicated preliminary concurrence with such a deployment, and a reconnaissance mission was undertaken during the first two weeks of May. The Department of Peacekeeping Operations is also in touch with the potential troop contributors regarding offers for the two additional infantry battalions required to complete the force. These additional battalions (approximately 1,050 personnel each) will provide MONUC with the operational reach and responsiveness that it needs to be successful in this remote and extremely volatile region.

52. Once deployed, the battalion group must gradually assume the Bunia security tasks currently performed by the Uruguayan contingent, which will eventually be relieved and return to its normal duties. Even with a slightly enhanced ability to provide security in the town, the capacity of MONUC to support monitoring operations or respond to violence in the remote areas would remain very limited. Only once the security situation in Bunia improves can MONUC begin to extend its operations, primarily in the vicinity of Bunia. Only when the full Ituri Brigade Force

is formed will MONUC have the ability to gradually expand its operations to include a more comprehensive range of security framework tasks in Ituri.

53. The current lack of a sufficiently credible MONUC force in Ituri would likely result in MONUC operations being confined to Bunia, and an increased level of risk and the probability that the United Nations military presence would be exposed to provocations. Inevitably, this raises the prospect that such a force may not be sufficient to fulfil its limited objectives. This is a risk that will be present, in any case, until such time as the brigade force is deployed and operationally effective, but it is a risk that can be reduced considerably if all parties are aware that the initial deployments are part of a realistic longer-term approach.

54. The duration of the limited military deployment of MONUC in Bunia and of the larger military force proposed in paragraphs 48 to 53 will depend on how quickly and successfully the political process in the area can achieve normalization and reconciliation. It is hoped that a Congolese integrated police unit, once formed, could gradually take over security responsibilities from the MONUC brigade force. In view of the extremely volatile environment in the region, MONUC, together with the United Nations Security Coordinator, has developed an evacuation plan which covers both MONUC and United Nations agencies personnel. Non-governmental organizations that have concluded memoranda of understanding with the Office of the Security Coordinator would be included in the evacuation plan.

#### **The Kivus and disarmament, demobilization, repatriation, resettlement and reintegration**

55. Even in the face of numerous and competing priorities in the Democratic Republic of the Congo, the importance of the Kivus cannot be overlooked. Two recent wars in the country began there, and the region remains a pivotal ingredient of the overall peace process. The Kivus border three key eastern neighbours of the Democratic Republic of the Congo, Uganda, Rwanda and Burundi. The conflicts that have afflicted these neighbouring countries have had a direct impact on security in border communities in the Kivus, be it as a result of refugee movements or the cross-border activities of rebel groups fighting the Governments of their countries of origin. The region has also grappled with issues of ethnicity, inequitable land allocation and fighting over the control of natural resources. In this context, MONUC intends to pursue a two-pronged approach: (a) continuing the disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups operating out of North Kivu and South Kivu and (b) promoting local peace and reconciliation mechanisms.

#### *Disarmament, demobilization, repatriation, resettlement and reintegration*

56. As indicated above, MONUC activities related to disarmament, demobilization, repatriation, resettlement and reintegration have recently been obstructed by the operations of armed groups in the east. This notwithstanding, the reception centre at Lubero, the transit points at Goma and Bukavu and a number of austere temporary assembly areas will be maintained by the United Nations in anticipation of the resumption of large-scale disarmament, demobilization, repatriation, resettlement and reintegration in those areas, as circumstances permit. At the same time, MONUC experience so far with this process has permitted a further refinement of methods, an improvement in information-gathering and

analysis techniques, enhanced collaboration with the Multi-Country Demobilization and Reintegration Programme, led by the World Bank, and with concerned specialized agencies and United Nations entities, such as UNICEF. For its part, UNHCR will also continue to promote returns of Rwandan refugees to their country by taking a more proactive approach to reaching pockets of Rwandan refugees countrywide.

57. With the deployment of the first United Nations task force to the Kivus (the main base being in Kindu), MONUC would be able to establish a United Nations presence in vital locations — including those hitherto inaccessible to MONUC military observers — and provide necessary support to disarmament, demobilization, repatriation, resettlement and reintegration. The robust and mobile nature of the task force — which will be equipped with armoured personnel carriers and helicopters — will permit the simultaneous deployment of MONUC disarmament, demobilization, repatriation, resettlement and reintegration teams to some of the remote groups in the region. The mobility capabilities will also bring a quick response capacity that has been lacking to date. This outreach approach will be a joint effort of the various MONUC components, including vital military support. Most importantly, it is hoped that this credible United Nations presence will give the groups an increased level of confidence in the disarmament, demobilization, repatriation, resettlement and reintegration programme by offering protection from harassment, as well as speedy movement to the resettlement camps across the border.

*Local peace and reconciliation mechanisms*

58. While the establishment of the Transitional Government and the full implementation of the All-Inclusive Agreement should eventually bring unification and peace to the Democratic Republic of the Congo, it is likely that localized conflicts, particularly in the Kivus, will continue in the foreseeable future. Moreover, a transitional period may be rather tumultuous and could generate conflicts which, if uncontained, could destabilize the whole national process and could even provide a pretext for external intervention. It is therefore necessary for the international community to assist the Congolese people at the local level in developing interim mechanisms for peace and reconciliation.

59. The situation in the east is currently characterized by a patchwork of primarily local armed groups competing with each other and suspicious of one another's motives. The disintegrated governance structures, ethnic heterogeneity, economic mismanagement and illegal exploitation of natural resources, tensions between different generations of migrants and refugees, land disputes and proliferation of weapons contribute to the instability in the region. There is a clear need to address the root causes and trigger factors of existing conflicts, and to contain new ones. The international community can play a vital supporting role in creating peaceful solutions to local conflicts. To this end, MONUC has already produced policy guidelines for its personnel based on the following approach: (a) crisis management to address acute security concerns between different groups; (b) post-conflict measures aimed at building confidence; and (c) conflict prevention initiatives to avoid the recurrence of violence.

60. In pursuing that approach, MONUC would attempt to serve as a catalyst for international support and assist the initiatives undertaken by local religious

institutions, Congolese grass-roots organizations or international non-governmental organizations with a proven track record. MONUC intends to pursue these activities in the context of the transitional institutions that are being established under the All-Inclusive Agreement, in particular those aimed at promoting reconciliation. The Mission would work closely with the national transitional authorities and with its United Nations partners, especially UNDP, which is developing a strategy for rehabilitation, reconstruction and recovery at the community level. In order to play such a facilitating and mediating role, MONUC will enhance its civilian presence in the Kivus.

61. Finally, mechanisms aimed at normalizing cross-border relations should be developed. While this is among the priorities to be addressed by the Transitional Government and with the neighbouring countries, preliminary initiatives could begin on a pilot basis. Joint economic initiatives and cross-border community projects could be considered, for example. When the new national armed forces are formed, joint patrols — monitored by MONUC — could be undertaken with the armed forces of the neighbouring countries in specified zones along the borders. In due course, the Security Council will be provided with additional recommendations about the expanded role of MONUC in the Kivus. These border issues should also take centre stage in the envisaged international conference on peace and development in the Great Lakes region.

#### **Human rights and transitional justice in the Democratic Republic of the Congo**

62. It remains clear that without strong national human rights protection structures in place and an end to the widespread reign of impunity in the Democratic Republic of the Congo, there cannot be any real reconciliation or the building of the foundation of long-term, sustainable peace. MONUC, working closely with the Office of the United Nations High Commissioner for Human Rights, intends to strengthen its capacity to support the building up of national human rights infrastructures as well as the setting up of transitional justice arrangements. The added focus on human rights investigations will be accompanied by close attention to strengthening — and coordinating the international effort concerning — the ability of national institutions, including the National Truth and Reconciliation Commission and the National Observatory for Human Rights (the creation of which is envisaged under the terms of the All-Inclusive Agreement), to adequately address the concerns of the Congolese people. In this context, it would be important to ensure that attention is paid to child protection issues.

#### **Facilitating humanitarian assistance**

63. It is also vital to continue and indeed expand the delivery of humanitarian assistance. More than 3.5 million people are estimated to have died since 1998 directly or indirectly as a result of the conflict. Despite the need to plan for future recovery and development opportunities, there are still enormous unmet needs that require immediate life-saving assistance. The main obstacle to this assistance has been the lack of access to populations in need and the insecurity created by the acts of the parties to the conflict.

64. The humanitarian objectives of MONUC will continue to focus on facilitating and ensuring access to vulnerable populations for the delivery of much-needed assistance, in close coordination with the Office for the Coordination of

Humanitarian Affairs, United Nations agencies and non-governmental organizations. It will do this in three ways: (a) it will initiate and participate in joint humanitarian assessment missions with the intention of facilitating access to previously inaccessible areas and facilitating the delivery of target assistance where it is most needed; (b) it will systematically engage with belligerents to negotiate a safe and secure access for humanitarian workers, as has been the case in North Kivu where a forum for dialogue with a local Mai-Mai alliance is under way; and (c) it will actively engage non-governmental organization partners in linking demining efforts with planned humanitarian activities, especially in areas where the presence of mines has hindered humanitarian activity.

#### **Responding to mine threats**

65. The serious mine incident reported in paragraph 14, the second such incident since the inception of MONUC, illustrates the requirement for MONUC to maintain a capacity to provide mine risk education to Mission personnel and the communities in which they work, in collaboration with UNICEF and other local partners. The Mission also requires the capability to collect, analyse and disseminate information about mine and unexploded ordnance contamination, and to respond with a clearance capability when required. The Mission will also advocate that all parties stop the use of landmines and provide information on mined areas.

66. The Mine Action Coordination Centre is an integral part of the Mission, and manages a database on contaminated areas for the benefit of the Mission and humanitarian organizations. The Centre's personnel provide expert advice to the Mission and other components of the United Nations system, coordinate the deployment of mine action operators and conduct threat assessment missions in support of MONUC. The Government of the Democratic Republic of the Congo, which recently acceded to the Convention on the Prohibition of Anti-personnel Mines, has requested the Centre to also coordinate the provision of external support for mine action programmes throughout the country. Consequently, it is proposed that the Centre be strengthened by the provision of three additional experts and resources for its operations. At the same time, the Mine Action Service of the Department of Peacekeeping Operations is actively seeking voluntary contributions from donors to develop an operational capability in support of humanitarian requirements. Such a capability could also be provided, in part and in direct support of MONUC, through the deployment of appropriately qualified units from troop-contributing countries.

### **B. Long-term priorities**

67. Clearly, assisting the transition process in a country as large and as devastated as the Democratic Republic of the Congo will present a vast challenge to all concerned. It will require a comprehensive approach in which the United Nations system, the Bretton Woods institutions, and bilateral and multilateral donors plan and coordinate their activities to an almost unprecedented degree. The political arrangements underlying the transition process are complex, the country lacks a strong and efficient public administration, and many of the political actors have little direct experience in democratic practices. Basic mechanisms for the functioning of a modern State (such as a State-wide banking system) are often non-

existent. Consequently, support to the transitional process has to be extensive and imaginative.

68. As outlined in my last report, in addition to the immediate priorities identified in paragraphs 30 to 66 above, the United Nations — in cooperation with organizations of the United Nations system, Bretton Woods institutions and other international partners — will assist the Transitional Government in meeting longer-term goals with regard to elections, the establishment of the rule of law and security sector reform, in particular the disarmament and demobilization of Congolese groups. The transition period could also serve as a bridge between the ongoing humanitarian programmes and expanding development initiatives.

#### **Support for elections**

69. The holding of free, fair and transparent elections towards the end of the two-year transition period can become one of the key elements in the exit strategy of MONUC. Elections in the Democratic Republic of the Congo pose a monumental challenge. The country has never held democratic polls since gaining independence 43 years ago, and no legal framework for the electoral process currently exists. The conditions for organizing the referendum and presidential and legislative elections would therefore need to be specified in an electoral law adopted by the transitional parliament. In a country the size of the Democratic Republic of the Congo, with its relatively poor communication and logistical links, the elections will be very costly, and will require a major cooperative effort between the transitional authorities, the United Nations and bilateral donors.

70. Following preliminary discussions between the United Nations and international representatives in Kinshasa, it could be envisaged that MONUC could provide technical and logistics assistance to the Independent Electoral Commission and facilitate its work through coordination of international support to this end. The precise contribution of MONUC will however depend on the views of the Transitional Government when it is established. As soon as this occurs, a feasibility assessment mission will be dispatched. In the interim, MONUC will have to establish a small electoral cell to commence further planning and liaison.

#### **Rule of law**

71. The situation throughout the Democratic Republic of the Congo is characterized by a pervasive culture of impunity and extremely poor governance. The strengthening of the rule of law is one of the fundamental challenges to be overcome, to break the vicious circle of violence, eradicate impunity, combat the root causes of the conflict and lay the foundation of a democratic society. The responsibility and political will of the transitional authorities in the Democratic Republic of the Congo must be paramount in this regard. As I outlined initially in my thirteenth report to the Security Council (S/2003/211, para. 59), MONUC could assist in the sector of the rule of law by coordinating the overall international effort in the areas of civilian police, human rights, the judiciary and correctional facilities. To enable it to do so, and ensure the harmonization of initiatives, the close support and collaboration of bilateral donors and multilateral and other agencies will be required. My Special Representative intends to establish a multi-disciplinary task force on the rule of law to ensure internal and external coordination of effort. While emphasizing Congolese ownership in all steps of the transition, MONUC is well

placed to provide facilitation and coordination, technical and training advice and structures that could contribute to the establishment of a functional police and to respect for human rights, and to assist in the reform of the judiciary and correctional services.

72. To achieve such goals, a detailed assessment of the rule of law sector will be necessary. Towards this end, representatives of the Department of Peacekeeping Operations, MONUC, the Office of the United Nations High Commissioner for Human Rights and UNDP met for preliminary consultations, at Geneva on 6 May, with other United Nations and international actors in this field. Such consultations will be actively followed up, and will also include the Transitional Government of the Democratic Republic of the Congo, in particular, the Ministries of Justice, the Interior and Human Rights, once such a government is installed, as well as those bilateral donors interested in actively providing assistance in this vital sector. Subsequently, a multidisciplinary team will have to conduct a comprehensive assessment of this sector and recommend a framework in which each actor interested in providing assistance can be identified, taking into account the wishes of the new Government and the advice of various national players in the Democratic Republic of the Congo, including civil society.

73. At the United Nations country team level, a thematic group on human rights and justice has also commenced preparations for a comprehensive programme of support to the Transitional Government. The main areas of United Nations system assistance, in close collaboration with and in support of other actors, have been identified as: reform and strengthening of the legal framework and judicial system; reform, rehabilitation and development of an integrated national police service with particular emphasis on the rule of law and human rights issues; reform and strengthening of the correctional system; training the armed forces on the rule of law and human rights issues; support to the national human rights institutions; support to the establishment of the Truth and Reconciliation Commission; and introduction of measures to promote democratic and participatory governance. Measures to monitor, address and redress violations of human rights will need to be given top priority.

74. As regards the support that may be required for the creation of a national integrated police force, in addition to assisting the formation of the integrated police unit in Kinshasa, and possibly in Ituri, the objectives for the international community and MONUC would include contributing to improvements in professional competence, organizational capacity and institutional integrity; public awareness of the role of the police in a democratic society; and the cooperation between the police, the judiciary and the correctional system. These objectives can be achieved through advisory, training and development roles supported by the provision of some material and financial assistance for equipment and facilities including the possible rehabilitation of former training facilities, in five regional centres — Kinshasa, Lubumbashi, Kisangani, Gbadolite and Bukavu. While some Member States have already offered bilateral assistance in equipping and training the national police, a special multi-donor mission should be dispatched to further study this vital area of activities and provide recommendations to the international community.

75. International assistance in police training will however need to be linked to a number of benchmarks to be implemented by the Congolese authorities, including regular payment of adequate salaries, transparency in recruitment, promotion and



discipline, deployment of personnel based on the type of training received, development and implementation of internal accountability mechanisms, and a maintenance programme financed by the authorities for buildings refurbished by the international community. All efforts in support of the police must include concurrent efforts in support of the judiciary and the correctional services, and the necessary budgetary appropriations should be well coordinated with the Bretton Woods institutions.

**Security sector reform/disarmament, demobilization and reintegration of Congolese combatants**

76. A main objective during the transition period will be security sector reform. It will be vital for new national, integrated security institutions to be established in a transparent manner if they are to play a legitimate and democratically accountable role in providing security for all Congolese people. As indicated above, the creation of an integrated police force that will be responsible for internal security is an immediate priority. The earliest possible formation of the professional national armed forces is also essential. Some bilateral donors have indicated preliminary interest in a possible role in assisting the Transitional Government in these areas.

77. The establishment of a national army and the disarmament, demobilization and reintegration of combatants will be a vital aspect of any security sector reform. MONUC has explored with UNDP, the World Bank-led Multi-Country Demobilization and Reintegration Programme and United Nations agencies the possible follow-up to the proposal in my last report (S/2003/211, para. 60) that the expertise of MONUC in disarmament, demobilization, repatriation, resettlement and reintegration could be extended to the disarmament of Congolese combatants and the coordination of the activities of bilateral donors.

78. Any action MONUC would take in this respect, subject to the agreement of the Security Council, would support the process of creating unified national Congolese armed forces. MONUC activities in the disarmament, demobilization and reintegration of Congolese combatants could include (a) providing information on Congolese armed groups, using its already established database; (b) building on its already established contacts to sensitize non-signatory Congolese armed groups, as well as Mai-Mai, about disarmament, demobilization and reintegration; (c) assisting in the public information campaign; and (d) providing the necessary technical assistance to the national disarmament, demobilization and reintegration programme to be developed. Additional recommendations concerning a possible role for MONUC in the disarmament of Congolese combatants would be provided to the Security Council at a later stage.

79. In response to a formal request from President Kabila in September 2002, and following consultations within the United Nations country task force, UNDP was designated as the lead agency for the coordination of international efforts for the disarmament, demobilization and reintegration of the Congolese forces. This decision was endorsed by the Multi-Country Demobilization and Reintegration Programme in February 2003. UNDP has developed an interim strategy for the development of a national disarmament, demobilization and reintegration programme for the next three to six months, which was discussed during a recent meeting of the Multi-Country Programme in Paris in April. This interim strategy is based on four simultaneous approaches, namely, (a) a dialogue between the principal

political actors in the Democratic Republic of the Congo on the structure and management of a national disarmament, demobilization and reintegration programme which should have the active support of all components of the Transitional Government; (b) the planning of a large and logistically complex national disarmament, demobilization and reintegration programme; (c) the development of a rapid response mechanism to address these issues pending the full establishment of a national programme; and (d) current efforts led by UNICEF for the disarmament, demobilization and reintegration of child soldiers, as well as UNDP support for disabled ex-combatants, which will continue and be incorporated into a national programme.

#### **Child protection and gender affairs**

80. Many of the Mission's currently mandated tasks, in particular those that it has been unable to fulfil completely because of fighting and insecurity, will be even more relevant in the transition period. During this period, MONUC will monitor the integration of child protection issues into new or reformed institutions and legislation to ensure that needs are fully addressed. The disarmament, demobilization and reintegration of child soldiers is likely to increase tremendously once the national programme is implemented and conditions are favourable. The challenge remains enormous given the high numbers of child soldiers still on the front lines or in military camps throughout the country, and the precarious security conditions in some areas, which make reintegration difficult and the risks of re-recruitment high. MONUC will also continue to monitor violations of children's rights in order to evaluate the impact of the transition on children. The already robust involvement of the MONUC gender affairs component with civil society and political parties will also be instrumental in capacity-building to allow women leaders and women's organizations to play a greater role in the democratic process.

#### **Towards a comprehensive approach to support the peace process**

81. The work of MONUC, as outlined above, is designed to be carried out in the framework of its partnerships within the United Nations system and the wider international community. Even so, its work will be limited and the needs of the transition will be great. The immediate priorities are the rehabilitation of infrastructure and the provision of technical support for the efficient functioning of the new governmental structures. Even at this early phase, however, there is a need for a comprehensive package aimed at setting the stage for good governance and consisting of both short-term and long-term activities. With respect to infrastructure, the immediate need is for office space for the additional institutions and positions created. The Government has requested the help of UNDP, the World Bank and the European Union to mobilize the necessary resources for the rehabilitation of existing governmental buildings. An assessment of needs is under way, and once finalized will be presented to the donor community. The presentation should be made by the Follow-up Commission and could well be cast as the first phase of donor support for governance in the transition, which would culminate in support for the preparation and organization of the elections.

82. To complement the support in the rehabilitation of the existing infrastructure, other needs will be addressed, namely the need for training and provision of technical support for the efficient functioning of the new structures, taking into consideration the time limitation of their mandate. The role to be played by the

United Nations system should be catalytic. UNDP and other partners have started work on a public service reform programme and on an interim capacity-building strategy. The support of the United Nations system will be further extended to include the administrations in the provinces, with a view to promoting the unity of the national administration and laying the ground for the organization of the elections at the end of the transitional period.

83. In the medium term, the unification of the territory and complete freedom of movement is a priority for humanitarian and development actors. Insecurity is the major constraint at present; the wider deployment of MONUC in the eastern Democratic Republic of the Congo could help to alleviate the situation, although the onus clearly rests with the parties to cease all military activities. At the same time, enhanced mobility will require significant improvements to the country's transportation infrastructure, which is virtually non-existent. Discussions are already under way to join efforts with bilateral donors in the rehabilitation of roads and other transport links and facilities. In the meantime, the United Nations system and implementing parties will continue to rely on the Mission's transportation capabilities.

84. With regard to the effective management of natural resources, new legislative and regulatory frameworks have already been established with the assistance of the World Bank and the Food and Agriculture Organization of the United Nations. A process of validation of existing titles and concessions is foreseen as part of the transition process, pursuant to a decision to this effect of the Economic Working Group of the inter-Congolese dialogue. It would be important to start the process of validation quickly, as the current uncertainty over many titles and concessions will delay all productive investments in this important sector. At the same time, it is essential that the different parties start cooperating urgently on enforcement of legislation, to prevent a sudden burst of uncontrolled exploitation — especially of the forest — with potentially very negative environmental consequences. UNDP and the Global Environment Facility are involved in the environmental management of a number of sites throughout the country. The international community could provide valuable assistance, via the Congo Basin initiative, as well as by involving reputable non-governmental organizations in the monitoring of logging activities.

85. On the issue of longer-term reconstruction and rehabilitation, the Emergency Humanitarian, Social and Cultural Programme adopted during the inter-Congolese dialogue at Sun City provides a viable framework. The Congolese parties should develop a mechanism for strategy formulation and donor coordination, so as to maximize donor involvement and the speed of implementation. The key process in this context is that of the poverty reduction strategy paper, which was endorsed at Sun City. In addition, it is important to follow up on the decisions made at the meeting of the Consultative Group for the Democratic Republic of the Congo in Paris in December 2002. Those include the acceptance by the Government and all donors of the Emergency Multi-Sector Rehabilitation and Reconstruction Programme as the framework for financing public investment and reconstruction, and the decision that, as soon as feasible, a multi-donor effort would work to extend the framework to cover the entire country. It is essential that the extension of that Programme be harmonized with the important humanitarian programme coordinated by the United Nations system, so as to ensure a smooth transition from humanitarian assistance (especially in the east) to recovery and reconstruction and longer-term

development. In addition, it is important that the work be focused not only on physical reconstruction but also on governance and reconciliation.

86. A first step to achieving this could be the constitution of technical-level national working groups on a few issues which are universally viewed as urgent. Experience in other post-conflict situations shows that such technical-level cooperation can be an important element in confidence-building. To this end, coordination should be well established between the political and technical decision-making institutions — the Follow-up Commission and the International Committee on one side and the United Nations agencies and Bretton Woods institutions on another. MONUC, which is involved in the political process, could serve as a link. The success of the activities of the United Nations and Bretton Woods institutions would very much depend on the establishment of reliable coordination mechanisms (the above-mentioned technical-level national working groups) and the efficient use of existing ones (United Nations regional coordinator and country team, regional initiatives and others). Three initial topics could be disarmament, demobilization and reintegration, currency and HIV/AIDS. As a second step, a multi-donor mission in June could serve to render more visible the efforts of the international community to translate the transition into concrete results for the population. This could be followed by a high-level multi-donor mission late in the summer, which would lead to important resource mobilization at the next Consultative Group meeting in the autumn.

## **V. Financial and administrative aspects**

87. The General Assembly, by its resolution 56/252 C of 27 June 2002, appropriated an amount of \$581.9 million for the maintenance of MONUC for the period from 1 July 2002 to 30 June 2003. As at 30 April 2003, unpaid assessed contributions to the MONUC special account amounted to \$108,752,465. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to \$1,375,914,354. Since its establishment in October 1999, the Trust Fund to support the peace process in the Democratic Republic of the Congo has received voluntary contributions amounting to \$1,124,980, with expenditures authorized to date in the full amount.

88. So far, the Mission's logistics resources, including aviation, have been planned for disarmament, demobilization, repatriation, resettlement and reintegration operations, primarily in the areas of Kindu and Kisangani. Owing to the poor internal infrastructure throughout the country, the Mission continues to rely heavily on air assets and has requested the deployment of the second Mi-26 helicopter. A military airfield service unit has been identified for the deployment, and an ICAO airfield rehabilitation project is expected to be under way shortly, focusing on important airfields in the east. The deployment to Ituri and the sustainment of the force there will pose a considerable unforeseen logistical challenge. MONUC will have to develop a supportable logistics infrastructure to sustain a military and civilian force of up to 3,800 in Ituri. The main costs will arise from the requirement for additional medium and heavy transport aircraft, repairs to the Bunia airstrip and the rehabilitation of the surface transport infrastructure for long-term support. This will require considerable investment.

89. In view of the limited accessibility to the Ituri region, it is envisaged that logistics support will be provided using a combination of sea, road, rail and air transport through Uganda for the deployment of the forces and the sustainment of the MONUC military and civilian presence. Uganda has useable airports and a reasonably good road infrastructure leading to the border with the Democratic Republic of the Congo. The road network in the Democratic Republic of the Congo leading to Bunia is in poor condition and will require extensive rehabilitation. As this will take some time, resupply of the military contingents will primarily be conducted by air for the foreseeable future.

## **VI. Observations**

90. After nearly five years of continuous fighting, the Democratic Republic of the Congo finds itself at an intersection of peace and war. The definitive and successful conclusion of the inter-Congolese dialogue is a crucial milestone that constitutes the commitment by the Congolese parties to finally pursue a path of peace and reconciliation. The Congolese leaders must fulfil their obligations to the Congolese people, who have been waiting too long for their suffering to end. I wish to congratulate the Congolese parties in taking this step and to thank Sir Ketumile Masire, the neutral facilitator, and my Special Envoy for the inter-Congolese dialogue, Moustapha Niasse, for their tireless and determined efforts to complete this process. I would also congratulate the African Union, in particular its current Chairman, President Thabo Mbeki of South Africa, for the extensive support and assistance rendered throughout the peace process in the Democratic Republic of the Congo.

91. This is also a milestone for the United Nations. Since August 1999, the primary role of MONUC has been to facilitate the implementation of the Lusaka Ceasefire Agreement and supplementary bilateral agreements that provided the framework for addressing the military dimension of the conflict. Despite slow and partial compliance by the parties, there have been major achievements, including the disengagement of foreign armed forces and their allies to defensive positions, the withdrawal of the majority of foreign troops from the Democratic Republic of the Congo and initial progress in the ad hoc disarmament, demobilization and repatriation of Rwandan armed groups. I wish to pay special tribute to the men and women of MONUC, especially my Special Representative, Amos Namanga Ngongi, and the Force Commander, General Mountaga Diallo, for their courageous and indispensable efforts in advancing the peace process.

92. The peace process has now moved beyond the Lusaka framework and begun a new chapter that, more than ever, will require the comprehensive engagement and assistance of the United Nations and the international community at large. The magnitude of the challenges should not be underestimated: the country is still divided, military hostilities continue in the east, the population is traumatized by years of conflict, the country is poverty stricken and State services and infrastructure are non-existent.

93. MONUC is well, if not uniquely, placed to play a central catalytic role in assisting the parties through the transition period. For this reason I believe that the main focus of MONUC should now shift to facilitating and assisting the transitional process, and that the Mission should be reconfigured and augmented accordingly.

The immediate priority is to assist in the establishment of the Transitional Government. In the All-Inclusive Agreement, and in a letter dated 4 May from President Kabila, the United Nations has been requested to deploy a force to participate in the proposed multi-layered confidence-building security system to give confidence to transitional leaders in Kinshasa, outlined in paragraphs 33 to 38 of this report. I recommend that the Council agree to these requests by approving the proposed involvement of MONUC.

94. With respect to the institutions of the transition, I welcome the initial positive steps such as the formation of the Follow-up Commission and the participation of all its members, and the establishment of the International Committee in Support of the Transition that is convened by my Special Representative. The new Transition Support Unit in MONUC has already been instrumental in facilitating the preparatory phase of the implementation of the All-Inclusive Agreement. I intend to supplement it by establishing a small electoral assistance cell to commence planning the possible United Nations role in support of elections.

95. Many other challenges, especially the brutal conflicts in Ituri and in the Kivus, stand on the path to the transition. The ongoing strife in Ituri is a humanitarian catastrophe that threatens to derail the overall peace process. Supporting the representative, interim administration that was established on 14 April by the Ituri Pacification Commission is the only viable strategy for achieving peace in this troubled area. Uganda's withdrawal from Ituri is welcome, but it and all other external actors must recognize their accountability for the actions of those armed groups they helped create and must cease to supply them or give them succour.

96. In the current situation of instability and violence, and in the context of the Ituri Pacification Commission and the All-Inclusive Agreement, there can be no justification for supplying weapons to any group. I therefore recommend that the possibility of imposing an arms embargo be considered in Ituri as well as in the Kivus, with an exemption for the equipment of members of the future integrated armed and police units.

97. MONUC, through its enhanced presence backed up by the deployment of a brigade-size force as described in paragraphs 45 to 54, has a vital role to play in support of the still fragile Ituri political process. I am extremely concerned about the Mission's current limited presence in Ituri, especially in view of the immense gap between its capabilities and the high expectations of the population. The international community has a collective responsibility to address the rapidly deteriorating security situation in Bunia. I appeal to the Security Council to urgently approve the deployment of a task force to Bunia, as well as the concept of operations for a MONUC brigade-size force as described in paragraphs 51 to 54 above.

98. At the same time, the deployment of such a force would not be possible before the end of July even under the best of circumstances, leaving a dangerous interim gap in this highly volatile area. I therefore call on the Security Council to urgently consider the rapid deployment to Bunia of a highly trained and well equipped force, under the lead of a Member State, to provide security at the airport as well as other vital installations in that town and protect the civilian population, as a temporary bridging arrangement before the possible deployment of a reinforced United Nations presence. Such a deployment — for a limited period of time — should be authorized by the Security Council under Chapter VII of the Charter of the United Nations.

Neighbouring States and any other actors concerned should refrain from interfering in the ongoing developments in Ituri.

99. The ongoing military offensives in the Kivus continue to cause widespread suffering and undermine disarmament, demobilization, repatriation, resettlement and reintegration activities, and entail the risk of the direct re-engagement of neighbouring States. I call on all those involved in the fighting — RCD-Goma, various Mai-Mai groups and other local militias — to cease hostilities immediately. Arms supplies and other military support to all groups should also cease without delay. But these measures alone would not be enough. MONUC has a role to play in encouraging and assisting local and international partners in conflict resolution efforts by expanding the presence of its civilian personnel and military observers in the Kivus. I call on donors to contribute to a special fund for local peacemaking to be used by my Special Representative. Resources provided to such a fund could be used as seed money to supplement MONUC quick-impact projects in support of local grass-roots initiatives.

100. The disarmament, demobilization, repatriation, resettlement and reintegration of foreign armed groups must remain an important goal of the international community, as that process lies at the heart of the Great Lakes conflict. There is growing recognition, however, that a successful disarmament, demobilization, repatriation, resettlement and reintegration programme is not the prerequisite to a lasting peace process, but its by-product. The work of the Third Party Verification Mechanism established pursuant to the agreement of 30 July 2002 between the Democratic Republic of the Congo and Rwanda, has been a useful instrument for accelerating the withdrawal of Rwandan troops and the disarmament, demobilization, repatriation, resettlement and reintegration of Rwandan armed groups. Having accomplished its overall mission, the Mechanism is expected to conclude its work shortly. The full deployment during this month of the first task force in the Kivus will put the current ad hoc disarmament, demobilization, repatriation, resettlement and reintegration activities of MONUC on a firmer footing. I call on all concerned to cooperate with MONUC so that it can carry out this important task. I also encourage the Transitional Government of Burundi, together with all armed groups, to establish a disarmament, demobilization and reintegration programme there, so that those Burundian armed groups identified by MONUC in the eastern Democratic Republic of the Congo may be repatriated to their country of origin within an established structure.

101. Equally important for the transition process in the Democratic Republic of the Congo is the disarmament, demobilization and reintegration of Congolese armed and irregular forces. Further to the suggestion I made in my last report, I propose to the Security Council that the mandate of MONUC be expanded to assist the Transitional Government, at its request, to plan the disarmament, demobilization and reintegration of Congolese combatants. This should be done in the context of the creation of unified national Congolese armed forces, and in close collaboration with the Multi-Country Demobilization and Reintegration Programme, bilateral donors and United Nations agencies. I shall revert to the Council in due course with any operational recommendations that may be necessary in this regard.

102. I am appalled by the egregious level of gross human rights violations that continue to be committed throughout the Democratic Republic of the Congo, some of which have been documented extensively by MONUC. I appeal to the transitional

Congolese leaders to make the protection of human rights one of the highest priorities of the new Transitional Government. MONUC and the Office of the United Nations High Commissioner for Human Rights will work closely with the transitional institutions in this regard.

103. The immediate priorities, especially those related to the security arrangements in Kinshasa and peace initiatives in Ituri, clearly require further resources for MONUC. Taking into account the major operational readjustments that have been undertaken, I recommend that the mandate of MONUC be extended for another year, until 30 June 2004, and that the authorized military strength of MONUC be increased to 10,800 all ranks. I also recommend that the number of civilian police personnel be increased from the current level of 100 to 134 police officers. It should be noted that 6 to 48 additional officers will also be required, depending on the training option for the integrated police unit to be followed (see paras. 41 and 42 above). Other specialized personnel to support the immediate priorities of MONUC (see sect. IV.A) will also have to be augmented. While the troop level will be kept under constant review, it should be noted that the current requirements are based on the present threat assessments and that, should the situation deteriorate, additional resources may be required. I shall revert to the Security Council with specific recommendations for longer-term objectives, which are described in paragraphs 67 to 86 of the report.

104. A United Nations peacekeeping operation relies on cooperation with other partners to consolidate a hard-won peace. I call on all concerned to coordinate their efforts to harmonize initiatives, aimed at maximizing results in the Democratic Republic of the Congo. I am pleased to note that the World Bank and other donors are already increasing their assistance to the country.

105. Despite the best will of the United Nations and its partners, the peace process cannot move forward without the demonstrated commitment of the Congolese leaders. There are a number of key benchmarks that the parties must observe in the coming weeks to maintain momentum and demonstrate their commitment. They include the immediate cessation of hostilities and of inflammatory rhetoric and propaganda; the lifting of restrictions on the free movement of goods and people throughout the country; the liberalization of political activity in the areas under their control; the disbandment of armed groups or their transformation into political parties; and taking steps to establish the high command of the integrated national armed forces and to form an initial unit of integrated police.

106. The illicit exploitation of natural resources has criminalized the conflict in some areas, making it all the more difficult to stop, as well as depriving the Congolese people of their heritage and livelihood. The Transitional Government must produce, in a transparent manner, a budget with provisions for key State services. To this end, the Government should be held accountable for the effective management of the natural resources of the Democratic Republic of the Congo and necessary assistance should be provided towards this end.

107. The challenge at hand is enormous. It is up to the Congolese themselves to keep the peace process vibrant, dynamic and successful. The international community, including MONUC, will follow their lead and provide the necessary assistance in translating the vision of peace into a reality.



**ANNEX 3.7**

**IRIN, *Special Report on the Ituri clashes — [part one]*, Nairobi, 3 March 2000**

## Feature

Politics and Economics

# IRIN Special Report on the Ituri clashes - [part one]

NAIROBI, 3 March 2000

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### Introduction

Bloody ethnic clashes in the Ituri district of northeastern DRC, which broke out in June last year, drew international attention to an ongoing conflict between the Hema and Lendu people in the area. The clashes resulted in the deaths of some 4,000-7,000 and an estimated 150,000 displaced people. Hundreds of survivors have been left seriously maimed, and local hospitals are stretched to the limits of their skills and resources to care for patients with gruesome machete injuries and traumatic amputations. Villages have been razed to the ground, homes burnt, crops and land abandoned, and vital possessions including seeds, agricultural tools and clothes destroyed.

No peace agreement between the hostile parties

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has yet been reached, and the rebel Rassemblement congolais pour la democratie-Mouvement de liberation (RCD-ML), which controls the area, calls the present lull in the fighting no more than "hopeful". As a "test of sentiment", according to RCD-ML leader Ernest Wamba dia Wamba, the authorities are encouraging people to return to their abandoned and destroyed villages. But many of the displaced fear to return to villages where there is inadequate security and no structure has been put in place for returnees.

Since the beginning of February, hospitals have admitted new victims attacked on an individual basis when attempting to go home. Nominal security - sometimes only two or three soldiers - is provided in the villages by the Ugandan army, which occupies northeastern Congo and backs the RCD-ML. Humanitarian agencies complain extremist sentiment from both the Lendu and Hema camps is obstructing a basic response to the crisis that was deemed "acute" last October.

#### **Origin of the conflict**

Hostility between the Lendu and Hema communities is rooted in unequal acquisition and access to land, education, and local government. Although neither community originated in the area, the settlement of the Bantu Lendu agriculturists pre-dated the 19th century arrival of the Nilotic cattle-herding Hema. Both sides have differing interpretations of the original history and pattern of settlement, but it is generally recognised that the minority Hema benefited disproportionately from the departing Belgian colonialists. They inherited plantations, farms and fertile lands, and became a land-owning class. The Lendu were employed to work on the land, and see the Hema as acquisitive "outsiders" who migrated from areas in Uganda and Sudan. The comparative wealth of the Hema gave them more access to education and greater representation in

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administration and local government despite having a minority status.

Other tribes are involved in the conflict, also woven into this relationship of inequality. The Alur, for example, used the Lendu for cultivation and service “like slaves”, according to one local player. The area is actually a patchwork of many different tribes, of which the Lendu and Hema are only part. According to RCD-ML representatives, out of a population of 1.4 million in the main Djugu area of Ituri, some 450,000 are Lendu and about 250,000 are Hema.

This local construction of communities fits into a larger political context in the Democratic Republic of Congo where the state has tended to lend “authenticity” to Bantu groups. More recently, Nilotic groups like the Hema have been associated with the occupying armies of Rwanda and Uganda. There were hostile flashpoints between the Lendu and Hema before the current conflict - notably 1975 and 1991 - although nothing comparable to the present massacres. Lendu and Hema representatives say previous conflicts were stopped during former president Mobutu Sese Seko’s regime through the mechanisms of local administration, security and intelligence, as well as successful mediation and traditional agreements.

Theories put forward as to why the massacres began tend to focus on expansionism by the Hema and unequal land access, which provoked attacks by the Lendu, then spiralled into counter-attacks. The “trigger” event that turned an inequality - typical on the continent - into mass killings is not known. It has been variously attributed to evictions and manipulated borders as well as planned retribution. In 1998 there were some incidents of Hema manipulation and Lendu looting that have been retrospectively related to the build-up of hostilities.

But inequality of land and representation did not make the killings inevitable. Research in the area of

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conflict shows that initial attacks were far more sophisticated than spontaneous grievances, and paperwork kept in the administration files of Blukwa - a flashpoint of the clashes - demonstrate an element of planning and execution in the absence of any real authority. There is also the possibility of a wider political dynamic, though this remains speculative, involving former soldiers and factionalism. All camps make references to a "hidden hand", implying a political strategy behind the conflict. Ugandan soldiers claim former Mobutu soldiers are masterminding some of the attacks.

While there is no evidence of state participation in the Lendu-Hema conflict, the ethnic focus, the method of attack and the sheer numbers killed has led to accusations of "genocide". The UN Special Rapporteur on Human Rights has called the killings "possible crimes against humanity".

#### **The first round of violence**

According to displaced Lendu and Hema, the first mass machete attacks were launched by the Lendu from the Pitsi collectivity against Hema villages in the Djugu and Blukwa areas in June 1999. This coincided with the appointment of district governor, Adele Lotsove, a Hema, roundly criticised for her attempts to increase the economic and political standing of her own people, and her partisan handling of subsequent peace talks.

Concern among international and local observers to apply the concept of "balance" to a conflict that has seen vast numbers of both Lendu and Hema killed, has emphasised historical grievances and counter-killings. This tends to obscure the pattern and origin of the killings. Apart from complaints about their immediate circumstances, recent attacks and traditional grievances, Lendu and Hema victims concur that extremists in the Pitsi collectivity initiated mass killings. The planned assaults took the Hema

unaware, and aimed to remove the Hema from land considered Lendu. Both Lendu and Hema victims point out, also, that it would have taken lengthy planning to make the enormous numbers of arrows used in mass attacks. In the absence of any real authority, killings escalated when the Hema launched counter-attacks and used Ugandan soldiers in a defensive strategy. Subsequently, the scale of tit-for-tat attacks over the last few months has resulted in thousands dead on both sides, gruesome injuries, and rendered meaningless notions of “attacker” and “defender”.

A displaced Lendu man in Bunia described how a Lendu village, Buli, was attacked early one morning by Lendu extremists. His daughter broke her leg in the rush to find sanctuary in the Catholic church, where they waited for three hours before Ugandan soldiers arrived. Extremists have put pressure on Lendu communities, he says. “They want us all to join the fight. When they come to us, the message is clear - let’s go and fight Hema and soldiers together with machetes. If you don’t, you will also be killed.”

### **The strategy**

Attacks were preceded by written warnings sent out in May from chiefs from the Pitsi locality that Hema should vacate the land and leave their livestock and crops behind. Blukwa administration has kept notes sent out by the Lendu chiefs of Bamgusu and Mukpa (Pitsi grouping) to the population of Uchubu and Juza to vacate by 18 June. According to villagers and the administration in Blukwa, houses were burnt on 18 June, then the attacks moved onto Blukwa itself on 22 June.

Copies of the threats from Pitsi are kept in official files held by the Blukwa administration. Written in Swahili, the note to Blukwa translates:

“Today, today, today, visitors who are living here in

these hills, you are ordered to leave. Those who have cattle, goats and sheep should hand them over and leave our hills forever. The fifth day is your last day. After that, it will be as you have heard. Leave and get out.”

Once received, original copies were attached to official letters from the administration requesting protection and increased security. Urgent alerts were sent to the security committee, commander of the army, and commander of the police in Bunia and Djugu, in June, but without response. The letters bear the official stamps indicating the date they were sent and the date received.

Representatives of the Hema community claim Lendu extremists are using an organisation formed around 1993 as a political vehicle - the ‘Liberation of the Oppressed Race of Ituri’, or LORI. In the KiLendu language, “lori” means “the place where things are settled”. According to its detractors, LORI has senior leaders based in Kinshasa. In February, representatives of LORI in Bunia told international journalists that the organisation was a cultural association and played no part in the killings.

Mass killings over the next few months, initiated by these extremists, included attacks on moderate fellow Lendu. The latter typically continued to live among the Hema and avoided active participation in the attacks. They make up a large proportion of the displaced in urban and trading centres like Bunia, Djugu and Drodro.

With the escalation of counter-attacks by Hema, there must be concern about the continued ability of the displaced to exist together. To date, displaced Hema and Lendu mix successfully in the centres and hospitals. But as the conflict continues, increased polarisation makes resentment follow purely ethnic lines, so that, for example, displaced moderate Lendu, are finding it increasingly difficult to find survival work in the fields.

Initial attacks by Lendu extremists included assaults on other tribes, such as the Ndo Okebo and Alur, seen to share interests or territory with the Hema. These attacks were not small or incidental. The Ndo Okebo lost many people and villages in the Djugu area and, along with the Alur and Mambisa, are a crucial part of the peace talks currently underway.

The Hema began to use their comparative wealth and influence to hire Ugandan soldiers for counter attacks. Although the Ugandan army had no clear instructions on how to handle the conflict at this stage, soldiers admit there was a "sympathy" for the Hema, not just as victims of the first attacks, but because they were derided as having Ugandan origins. In the absence of policy, the "special relationship" between the Hema and the Ugandan soldiers added a deadly dynamic, based partly on socio-political factors, and partly on wealth and resources. Some individual officers took the opportunity to accumulate wealth by protecting the Hema, acting like mercenaries.

#### **Method of attack**

Initial attacks on targeted villages caught victims unaware, and there was a wholesale slaughter by machetes and arrows of hundreds of villagers, and a comprehensive destruction of houses. An unknown number of bodies -possibly thousands - were buried in mass graves or left in the bush for scavengers. Unable to return to occupied and destroyed villages, many families from both sides have failed to properly bury their dead. Counter-attacks followed a similar modus operandi. These are descriptions of attacks by some of the victims:

"They came dressed in sports shirts early in the morning, and some had animal skins round their heads. They carried a lot of arrows. There were hundreds of fighters. They started first in the village



with machetes and burnt houses. If you ran into the bush, you would be hit with arrows. Some of us managed to get back later and bury the dead but some of the bodies had been burnt in the houses, and some had been cut up. They take the heart, the sex, the tongue and the hands of the dead.”

[Displaced Hema interviewed in Drodro, after Lendu attack on Buyi village in July 1999].

“The attackers came early on Sunday morning and killed more than 80 people in two villages, using machetes and arrows. There were hundreds of Hema with Ndo Okebo. First they sent a letter saying they will attack us. They started the attack by encircling the village and blowing horns. Many were injured and we brought people to hospital, but we have no medicine.” [Lendu survivor interviewed in Saliboko, describing a 15 January 2000 Hema attack].

Ugandan soldiers concur that thousands of fighters group together for an attack. Mostly the attackers are adult male, but include boys as young as ten and occasionally women. Victims are often trapped in their houses early in the morning and killed as they run for the bush, or tracked down in the bush with arrows and machetes. Many victims describe how the attackers bang on the doors of houses shouting an alert, then kill as people run out of the house.

#### **The number dilemma**

There are no reliable figures of dead or injured on each side. A UN assessment mission to Djugu in October estimated over 100,000 displaced and said estimates of the dead ranged from 5,000-7,000. More massacres have taken place - on a monthly basis - up to February since that figure was established as the upper estimate.

That figure and allegations of “genocide” provoked a reaction from RCD-ML authorities in January, who

said no more than 2,000 had been killed. But leader Ernest Wamba dia Wamba admitted in February that “numbers were estimates”, and “around 4,000” had been killed. Some humanitarian representatives in the field said 7,000 was now an accepted figure, and the number of dead could be greater.

Although there are no reliable figures on the numbers of dead on each side, there are certain patterns of hospitalisation and injuries. The vast majority of victims presently hospitalised with gross machete wounds and traumatic amputations are Hema. Hospital staff do not keep records, but say that the early victims were overwhelmingly Hema. Bunia hospital, on the other hand, has received more Lendu victims with bullet wounds. There are six such cases since January 2000, including small children, attributed to attacks by security forces. One international humanitarian organisation warns that Lendu victims may not be brought into town and are more likely, particularly with bullet wounds, to remain in the bush.

end part one

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**ANNEX 3.8**

**Groupe Justice et Libération, “La guerre des alliés en R.D.C. et le droit à l’autodétermination du peuple congolais”, 31 August 1999**

*[Annex not translated]*

*[The text appearing as Annex 3.8 in the version filed by the DRC is in fact the following: Groupe Justice et Libération, “La guerre des Alliés à Kisangani (du 5 mai au 10 juin 2000) et le droit à la paix”, 30 June 2000, which can also be found at Annex 4.10d. The text entitled “La guerre des alliés en R.D.C. et le droit à l’autodétermination du peuple congolais” may be found at Annex 4.10c.]*

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